OPTIONS 2000:

A FRAMEWORK FOR MUNICIPAL RENEWAL

RURAL AND
URBAN
SECTORS

FINAL REPORT

TASK FORCE
ON MUNICIPAL LEGISLATIVE RENEWAL

MUNICIPAL GOVERNANCE
FOR SASKATCHEWAN
IN THE 21ST CENTURY

101-01878/

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LETTER OF TRANSMITTAL

August 2000

Honourable Jack Hillson
Minister of Saskatchewan Municipal Affairs,
Culture and Housing

Dear Mr. Hillson:

We are pleased to submit the Final Report on Municipal Legislative Renewal for the rural and urban municipal sectors in Saskatchewan.

We believe that with the submission of this report on the rural and urban municipal sectors, and a separate report on the northern municipal sector, we have fulfilled our mandate as outlined in Order in Council 507/1998 dated August 13, 1998.

In keeping with our mandate we have focused our efforts on providing the 'building blocks' rather than the 'blueprints' or plans for municipal renewal. Responsibility for producing the 'blueprints' or plans for renewal rests with provincial and municipal officials and the ratepayers and residents they represent and serve.

We are very pleased with the commitment of the Municipal-Provincial Roundtable to examine issues, options, and potential directions for renewal in an effort to produce such 'blueprints' or plans.
We believe that the majority of people in Saskatchewan expect to see both plans and progress on municipal renewal. It is generally recognized that there is much that needs to be done soon and that it must be done well.

This report is but an initial step on the road to municipal renewal in Saskatchewan. Our hope is that this report will stimulate widespread interest and discussion in Saskatchewan on the following:

- The need for municipal renewal; and
- The nature of municipal renewal.

We sincerely wish you, and all those who cooperate with and assist you in this important renewal initiative, every success.

Respectfully,

The Task Force on Municipal Legislative Renewal

Joseph Garcea (Chair)

Maria Lynn Freeland

Val Kononoff

Murray Westby

Bobby Woods

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TASK FORCE MANDATE

The Task Force on Municipal Legislative Renewal was mandated by the provincial government to conduct a review and make recommendations on the need for, and nature of, municipal legislative renewal in Saskatchewan. The Task Force's mandate as outlined in Order in Council 507/1998 dated August 13, 1998 states:

> *"It is desirable and in the public interest to establish an advisory committee to be known as the Task Force on Municipal Legislative Renewal, for a period not exceeding two years from the date of this Order, to:*
>
> - *Consider the role and responsibilities of municipal government in Saskatchewan in the next decade;*
> - *Confirm, or set new directions for the evolution and development of municipal governance;*
> - *Define and clarify the relationship between provincial and municipal governments; and*
> - *Make recommendations for municipal renewal.*
>
> *In fulfilling its mandate, the Task Force will:*
>
> 1. *Undertake consultations on municipal issues with interested individuals and organizations in the province;*
> 2. *Identify existing, emerging and potential obstacles to the goal of appropriate and principled municipal governance in the province;*
> 3. *Review Saskatchewan's existing municipal legislation;*
> 4. *Review municipal legislative renewal initiatives in other provinces and territories and consider what may be of value for Saskatchewan; and*
> 5. *Produce a set of recommendations on the need for, and the nature of, changes to municipal legislation in Saskatchewan."*

TASK FORCE STAFF

Joseph Garcea	*Director of Research and Analysis*
Rod Nasewich	*Policy Analyst*
Michael Lachine	*Policy Analyst*
Gail Elliott	*Administrator*

TASK FORCE REPORTS

Copies of this report and other documents produced by the Task Force listed below can obtained from:

- Web-site www.communilink.sk.ca/municipal_task_force
- Saskatchewan Department of Municipal Affairs Culture and Housing.

The Task Force's public documents include:

- "Discussion Paper" (Spring 1999)
- "Issues and Options Workbook" (Fall 1999)
- "Visions and Views from Community Forums" (Fall 1999)
- "Interim Report" (February 2000)
- "Report of Public Hearings & Submissions" (Spring 2000)
- "Options 2000: A Framework for Municipal Renewal in the Rural and Urban Sectors" (August 2000)
- "Options 2000: A Framework for Municipal Renewal in the Northern Sector" (August 2000)
- "Options 2000: A Framework for Municipal Renewal: Summary of Final Reports (August 2000)

PART ONE: INTRODUCTION

1. Nature of Report

1.1 Focus of Report

Rural and Urban Sectors

- This report focuses on municipal renewal within the rural and urban sectors in southern Saskatchewan.
- A separate report has been produced on issues of municipal renewal for the northern municipal sector that exists within the Northern Administration District.
- Nevertheless, some of the issues, options and potential directions profiled in this report may have some relevance for the northern municipal sector. Similarly, some of the issues, options and potential directions profiled in the report on the northern sector may have some relevance for the rural and urban sectors.
- The reason for this is that, despite some significant differences between some northern and southern communities and municipal governments (e.g., geographic proximity and transportation links to neighbouring municipalities), they also have some significant similarities among others in terms of their basic needs for both community and governmental capacity building as they enter the 21st century.

1.2 Purpose of Report

Stimulate Thinking

- The purpose of the report is to stimulate thinking on the following:
  - The need for municipal renewal;
  - The nature of municipal renewal; and
  - The requirements for municipal renewal
- Toward that end this report provides:
  - An overview of the factors that create the need and impetus for renewal;
  - A detailed **'framework of issues, options, and potential directions'** that should be considered in undertaking municipal renewal; and
  - An overview of requirements for achieving municipal renewal.

Frameworks and Building Blocks for Renewal Not "Blueprints"

- In producing ***a 'framework of issues, options and potential directions'*** the objective is to produce the ***'building blocks'*** for municipal renewal.
- The objective of this report is not to produce the ***'blueprints'*** for renewal. Producing the ***'blueprints'*** for municipal renewal is the role and responsibility of local and provincial governments and the communities they serve through various decision-making processes. The Task Force's role and responsibility is to ensure that all stakeholders who will be involved in various renewal decision-making processes have a document that identifies many of the key issues and options that should be considered in producing those *'blueprints'*.

- The Task Force continues to be hopeful that one such decision-making process, namely the Municipal-Roundtable involving the Saskatchewan Association of Rural Municipalities (SARM) and the Saskatchewan Association of Urban Municipalities (SUMA), and the provincial government will produce some substantial ***'blueprints'*** or plans for municipal renewal.

- The Task Force hopes that this report will serve as a valuable reference document for everyone interested and involved in municipal renewal. In particular it hopes that it will be of value for those who have assumed the lead responsibility for producing plans for municipal renewal in Saskatchewan.

- Such plans are essential because the need for municipal renewal continues to be imperative for ensuring that municipal and provincial governments are capable of serving the needs and preferences of Saskatchewan's communities effectively, efficiently and equitably.

1.3 Approaches of Report

- This report has been produced using three very important approaches, namely:
  - The 'systems' approach;
  - The 'building blocks' approach; and
  - The 'contingency' approach.

Systems Approach

(a) The Systems Approach

- The 'systems approach' focuses attention on most parts of the municipal system, rather than to only one part or element of it. The Task Force adopted this approach for two reasons.

- First, the broad scope of its mandate dictated that various individual parts or elements of the municipal system be reviewed.

- Second, given the important interconnections between the various major parts or elements of the municipal system, meant that it was not prudent to deal only with some of them, but not others. Thus for example, it was difficult to consider the nature and scope of renewal to the functions of municipal governments without also considering, among other things, the nature and scope of renewal to the status, powers, and finances of municipal governments.

Building Blocks Approach

(b) The Building Blocks Approach

- The *'building blocks approach'* was chosen over the *'singular model approach'* because the former constitutes a more prudent and potentially productive approach for fostering and facilitating municipal renewal. The reason for this is that it provides everyone interested and involved in municipal renewal with a greater opportunity to construct the models that they prefer. Unlike the other approach which presents them with a singular model consisting of a highly integrated set of proposed directions for renewal to various parts or elements of the municipal system, it provides them only with the key **'building blocks'** to construct their own models for renewal purposes. It does so by profiling a range of **'issues, options, and potential directions'** that should prove useful for such purposes.

- The Task Force decided to adopt the ***'building blocks approach'*** rather than the ***'singular model approach'*** for three major interrelated reasons.
  - First, because many of those who made oral and written submissions during the various rounds of public consultations indicated that they wanted more information on various issues, options and potential directions to help them make more informed choices regarding municipal renewal.
  - Second, because there is a lack of consensus within the province on options and directions for renewing various parts of the municipal system. This is particularly true for renewal to the structural features of the municipal system. Notwithstanding considerable agreement that some restructuring may be beneficial, there is not a high degree of agreement either on the precise nature and scope of such restructuring or the approaches for accomplishing the same.
  - Third, because it wanted to maximize the chances that the report would be of some value for renewal regardless of the nature of decisions that are made regarding any particular element of the system in the near future. The Task Force was concerned that by using the *'singular model approach'* it ran the risk of rendering this Final Report valuable or useful only if the singular model proffered therein were chosen for renewal purposes.

- The Task Force hopes that its decision to use the 'building blocks approach' rather than the 'singular model approach' will render this Final Report more valuable for all those interested and involved in municipal renewal.

- To reiterate, rather than profiling or advocating a 'single model', the Task Force has provided the 'building blocks' by which those interested and involved in renewal can either modify the existing system or create substantially new and different one. The Task Force's hope is that many will choose to use this report in that way.

(c) The Contingency Approach

Contingency Approach

- This report has been produced using the ***'contingency approach'*** rather than what might be termed the ***'non-contingency approach'***.

- This means that in identifying key issues, options and potential directions for renewal, consideration is given to the relationship between two parts or elements of the system or two or more facets of a particular part or element of the system.

- The contingency approach has been used in recognition that the nature and scope of renewal to one part or element of the system, depends or is contingent upon the nature and scope of renewal (or lack of renewal) to the other parts or other elements of the system.

- The contingency approach is particularly important when considering two key matters that constitute the core of the Task Force's mandate, namely the:
  i. Roles and Responsibilities of Municipal Governments; and
  ii. Municipal-Provincial Relationships.

(i) Contingencies on Roles and Responsibilities of Municipal Governments

Roles & Responsibilities

- The fundamental principle of the contingency approach suggests that there should be a close correlation between various parts or element of the system, including the following:
  - Functions (i.e., roles and responsibilities) of municipalities;
  - Status of municipalities;
  - Powers (i.e., authority and autonomy) of municipalities; and
  - Finances of municipalities.

(ii) Contingencies on Municipal-Provincial Relationship

Municipal-Provincial Relationship

- Similarly, the fundamental principle of the contingency approach suggests that there should be a close correlation between, among other things, functions (i.e., roles and responsibilities) of municipal governments, and the nature of the municipal-provincial relationship. In other words, municipal governments actually performing the same functions (i.e., roles and responsibilities) should expect the same relationship with or treatment from the provincial government on matters such as status, powers (i.e., authority and autonomy), and finances.

- The fundamental principle embodied in the contingency approach serves as an important reminder of the linkages among various issues, options and proposed directions that are profiled in this Final Report. It also serves as an important reminder that due care and attention of such linkages is required in any analyses, discussions, or initiatives on municipal renewal in the future.

- The application of the fundamental principle of the contingency approach articulated above will require two things:
  - First, close attention to the types of provisions included in statutes, policies, and programs regarding the precise functions (i.e., roles and responsibilities) of various municipal governments.
  - Second, a set of accountability mechanisms and instruments that provides the means to track and measure the extent to which various municipal governments actually perform various functions (i.e., roles and responsibilities).

- Such provisions and accountability mechanisms and instruments are important both for:
  - Any accountability requirements from municipal governments to the provincial government; and
  - Any accountability requirements from municipal and provincial governments to ratepayers and residents.

- The reason for this is that to hold both their municipal and provincial governments accountable, ratepayers and residents must know the alignment of functions (i.e., roles and responsibilities) between them.

Contingency is Consonant with Equality of Municipalities

- The contingency approach to municipal renewal is consonant with the principle of equality of municipalities because it postulates that equality of functions means equality of, among other things, status, powers, and finances. This is a concept that many of those who made oral and written submissions during the public consultations endorsed either explicitly or implicitly.

1.4 Bases of Report

- The issues, options, and potential directions profiled in this report are based on ideas and materials collected from two major sets of sources.

Several Sets of Thinking

(i) First, this report is based on ideas regarding various issues, options, and potential directions regarding municipal renewal from the following:
  - Those who made oral or written submissions during various rounds of public consultations;
  - Those who made oral and written submissions to the Task Force's office;
  - Those who participated in various 'Special Forums' conducted in collaboration with various organizations and their members;
  - Those who spoke to Task Force members outside of formal forums or hearings;
  - Those who provided written or oral comments in various media formats; and
  - The Task Force members.

Several Sets of Ideas

(ii) Second, this report is based on ideas regarding various issues, options, and potential directions on municipal renewal gleaned from several major sets of documents and literature including:
  - The municipal statutes of every jurisdiction in Canada;
  - The reports on municipal renewal produced in Saskatchewan as well as in other jurisdictions in the recent and distant past; and
  - The literature on the municipal systems and municipal renewal initiatives of other jurisdictions.

1.5 Contributions to Report

- This report is the product of the thoughts and efforts of many people in this province, and not merely those of the Task Force members.

Interest & Commitment of Contributors is Appreciated

- The Task Force sincerely appreciates the interest and commitment demonstrated during the review process by the following:
  - ratepayers and residents of various communities;
  - municipal governments and their officials;
  - various organizations and their officials,
  - various provincial government departments and their officials, and
  - various members of the media.

- Although the Task Force has had the privilege and responsibility of producing this report as well as the other documents that preceded it, could not have done it without the strong and generous support and dedication of many people. This includes those who have been unable to agree with some of our propositions in previous reports and those who may disagree with some of our propositions in this report.
- The important point to note here is that the Task Force has put developed 'propositions' rather than 'regulations'. Propositions are 'initial products' rather than 'end products'. Before any substantial 'end products' emerge from this process many more contributions of many people who are interested and committed to municipal renewal will be required.

2. Need, Vision and Goals for Renewal

- This report reiterates and underscores much of what was articulated in the *Interim Report* regarding the need for, vision and goals of municipal renewal.

2.1 Need for Renewal

Municipal renewal Is Imperative

- This report underscores that there is a substantial, pressing and continuing need for municipal renewal. Indeed the Task Force shares the belief of those who contend that municipal renewal is imperative not only for the future of any particular individual local or regional community and economy, but also for the future of all local and regional communities and, ultimately, for the provincial community and economy.

Failure to Undertake Municipal Renewal Could be Catastrophic

- The failure to undertake municipal renewal could contribute to the failure of all governments to produce the policies, programs, and projects that will assist local and regional communities in addressing the challenges and problems that confront them. Such failures could prove catastrophic not only for the individual communities but the province as a whole.

Municipal Renewal Alone Is not the Solution, but is a Significant Part of the Solution

- The Task Force, like others, is left wondering about the extent to which some of the current challenges and problems confronting some of Saskatchewan's communities and their economies today is a function of failure to undertake the requisite municipal renewal in a timely and appropriate manner in the past.

Need to Renew all Parts of System

- The Task Force shares the belief of those who contend that municipal renewal alone is not the solution for all the challenges and problems confronting Saskatchewan. Nevertheless, the Task Force shares the belief of those who contend that municipal renewal is a very significant part of the solution.

The System is the Problem, not the People Operating the System

- The Task Force shares the belief of those who contend that there is a need to renew all parts of the municipal system. Renewal to only one part of the municipal system will not suffice. Thus, in producing a renewal plan it is important to address all the statutory and structural elements of the municipal system.

The Municipal System Works Because of, not Despite, the People Who Operate it

- The Task Force shares the belief of those who contend that the problems in the system are with the structural and statutory frameworks, rather than the number or types of people who are operating the system. Indeed, the Task Force believes that in light of the structural and statutory problems, it is remarkable that the system works as effectively and efficiently as it does.

- As noted elsewhere in this report, the fact that it works relatively well is due in large part to all the special efforts of the many dedicated elected and appointed officials and their ratepayers in performing various crucial tasks. Their ability to perform those tasks is compromised considerably both by the problematic statutory and structural features of the municipal system, including the level and distribution of financial and human resources therein, and the negative effects of various demographic and economic trends affecting them.

2.2 Vision for Renewal

- This report is based on the following vision of municipal governance in the 21st century.

Vital, Vibrant & Viable Communities

High Quality of Service, Development, and Life

"In the 21st century municipal governance will continue to be of fundamental importance for creating and sustaining vital, vibrant, and viable communities and in providing their members with a high quality of service, a high quality of development, and a high quality of life."

2.3 Goals for Renewal

- There are and will continue to be many specific goals and objectives for renewal of various parts of the municipal system. These specific goals and objectives are articulated either explicitly or implicitly in various sections of this report.
- The Task Force shares the belief of those who contend that there should be two overarching goals of municipal renewal.

1. *Eliminate Problematic Features of the Municipal System*

Goal for Municipal System

- The first goal is to eliminate the problematic features of both the statutory and structural frameworks of the municipal system.

2. *Eliminate the Problematic Features of the Provincial System*

Goal for Provincial System

- The second goal is to eliminate the problematic features of both the statutory and structural features of the provincial system of governance that cause serious problems for the municipal system.

Eliminating Statutory and Structural Problems in Provincial System is Very Important

- This report focuses much more on what can and must be done to achieve the first goal, than on what can and must be done to achieve the second goal. Many more issues and options regarding the statutory and structural features of the provincial system must be addressed in conjunction with what can or must be done to achieve the second goal, than are examined in this report. This includes, for example, what can and must be done with:
  - The various provincial statutes and the policies and programs that flow from them;
  - The geographic basis of the organization of the provincial system of governance and management; and
  - The departmental organizational basis of the provincial system of governance and management.

- Current and future provincial governments and legislatures must continue to ask the same difficult and fundamental questions about the need for renewal to the structural and statutory frameworks of the provincial system of governance that are being asked of the municipal system of governance.

- Both of the goals listed above are very broad but nonetheless of substantial importance for municipal renewal.

Tinkering is not Enough!

- Setting less substantial overarching goals would be tantamount to tinkering, and tinkering is not enough.

3. Requirements for Renewal

- There are at least ten major requirements for renewal.

3.1 Municipal Renewal Plan

Renewal Plan

- First, a comprehensive and detailed municipal renewal plan is required.
- Such a plan should deal with various facets of the renewal process including, but not limited to, the following:
  - The major stages for renewal and what is to be achieved at each stage.
  - The major parts or elements of the municipal system that will be reviewed and renewed.
  - The goals and objectives that will guide the review and renewal of each of those parts or elements of the system.
  - The means by which each part or element of the system will be reviewed and renewed.
  - The timeframes for reviewing and renewing each part or element of the system.

3.2 Renewal Must be a Priority

Priority

- Second, renewal must become a priority for everyone. At the very least it must become a priority both for provincial and municipal governments. However, renewal also requires active involvement by members of the general public. Their involvement is essential to ensure their needs and preferences influence the directions of renewal. This is not an issue just between provincial and municipal governments. Everyone has a stake.

- For renewal to become a priority it requires that everyone understand that municipal governments are important for more than the delivery of a few basic municipal services (roads, water, sewer, etc). They are equally, if not more important, in fostering and facilitating development and quality of life in their communities.

3.3 Focus on Public Interest

Public Interest

- Third, renewal requires that all stakeholders and members of the public focus on the public interest. The public interest must be paramount; organizational, personal, parochial, and partisan interests should not become impediments or obstacles to municipal renewal.

3.4 Effective Leadership

Leadership

- Fourth, successful renewal requires effective leadership. Such leadership must come from several places including: municipal elected and appointed officials; provincial elected and appointed officials; members of the 'for-profit' and 'non-profit' sectors; members of unions, and other influential members of local and regional various communities. Indeed, it requires leadership on the part of ratepayers and residents in every community in this province.

3.5 Bold Initiatives and Bold Compromises

Bold Initiatives & Compromises

- Fifth, renewal requires bold initiatives and compromises on the part of all stakeholders. Bold initiatives and bold compromises are absolutely essential to achieve the type of renewal that many want and Saskatchewan's local, regional, and provincial communities and economies need.

3.6 Understanding Context of Municipal Governance

Understanding Operational Context of Municipal Government

- Sixth, renewal also requires an understanding that municipal governments operate in an economic, social, and intergovernmental context that is substantially different than when the municipal system was first established. The sizes of the economic and social communities are significantly different today than they have been in the past, and they will likely become increasingly more different in the future.

- Similarly, the intergovernmental context of today is very different from what existed when the municipal system was first established. The nature of municipal-provincial relations and the respective roles and responsibilities of municipal, provincial, federal, and Aboriginal governments have and continue to experience substantial changes over time.

- An understanding of the economic, social, and intergovernmental contexts leads to a better appreciation not only regarding the need for renewal, but also for the nature of renewal.

3.7 Renewal of Provincial and Local Sectors

Renewal of Provincial & Local Sectors

- Seventh, to ensure that renewal in the municipal sector is successful requires renewal in the provincial government sector. This is particularly important in those elements of the provincial government sector that have a direct and significant effect on the municipal sector. This includes those elements that deal with key matters such as economic development, highways, and the environment.
- As well, it is necessary to renew the local non-municipal government sector to ensure that there is an optimal structural and functional alignment with the municipal sector.

3.8 Appropriate Governmental Policies and Programs

Appropriate Policies & Programs

- Eighth, to ensure that municipal renewal is successful it is important, indeed imperative, that the policy and program frameworks of the municipal, provincial, federal governments foster and facilitate various types of development.

3.9 Appropriate Balance of Local and Regional Governance

Appropriate Balance of Local and Regional Governance

- Ninth, to ensure that renewal is successful requires an appropriate balance between local and regional municipal governance. Local and regional forms of governance exist now and always will. The challenge will be to find both the appropriate forms and the appropriate balance between the two for different purposes, in different places, at different points in time.

3.10 Appropriate Approaches

Appropriate Approaches

- ➢ Tenth, renewal requires appropriate approaches guided by appropriate principles.

- ➢ Whereas in the *Interim Report* the Task Force suggested that a 'negotiated approach' to statutory renewal and a 'directed consultative approach' to structural renewal should be used, in this report the Task Force suggests that 'the most appropriate approaches' should be used to ensure that the goals of municipal renewal are accomplished. Moreover, the Task Force suggests that careful consideration be given to the nature and degree of consultations, negotiations, and directions that are required on everyone's part to ensure that the requisite municipal renewal is achieved for the benefit of local, regional, and provincial communities and economies.

- ➢ In the case of direction on the part of the provincial government, the Task Force wishes to underscore that the type of direction it envisaged in the *Interim Report* was not just so-called 'forced amalgamation'. Instead, it envisioned a continuum with 'voluntary amalgamation' at one end where local preference would be relatively extensive, and 'mandated amalgamation' at the other end where local preference would be relatively limited. The decision as to the degree of provincial direction that is required on that continuum has always been, and remains, a matter of policy choice. The views expressed during the Task Force's public consultations should have provided all municipal and provincial decision-makers with indications of the preferences that exist and must be factored into choosing 'appropriate approaches' for renewal.

Fundamental Principles Regarding Approaches

- ➢ In this report, as in the *Interim Report*, the Task Force wishes to underscore that any approach used for renewing municipal system should be guided by five fundamental principles:

(a) Positive & Proactive Leadership

Positive & Proactive Leadership

- ➢ The process should be led and directed in a positive and proactive manner by not only by the municipal and provincial governments, but also by ratepayers and residents.

(b) Transparency

Transparency

- ➢ The process should be highly transparent. It should be designed in a way that everyone understands the nature of the decisions that must be made, the decision- making sites, who the decision-makers are, and ultimately, the nature of the decisions made.

(c) Openness

Openness

- ➢ The process should be very open. Everyone should have an opportunity to express views either in writing or orally on any proposed renewal.

(d) Advance Notice

Advance Notice

- ➢ The process should include advance notice of any significant initiative for renewal.

(e) Adequate Consultations

Adequate Consultations

- ➢ The process should include adequate consultations of any significant initiative for renewal.

PART TWO: NEED FOR MUNICIPAL RENEWAL

Why is Municipal Renewal Needed?

- Municipal renewal is needed because it is becoming increasingly difficult for the municipal system to meet the current and future needs of the local, regional, and provincial communities and economies. Such difficulties stem from a combination of three major sets of problems:
  1. **Problematic economic and demographic trends.**
  2. **Problematic structural framework of the municipal system.**
  3. **Problematic statutory framework of the municipal system.**

- This section briefly describes the following:
  1. The nature of those problematic trends and features; and
  2. The negative effects of those problematic trends and features including:
     - Incompatibilities between the municipal system and economic and social systems;
     - Imbalances in the municipal system;
     - Inequities in the municipal system;
     - Inter-municipal spillovers in the municipal system; and
     - Increased costs for those inside and outside the municipal system.

Who is affected?

- The problematic economic and demographic trends and the problematic structural and statutory features of the municipal system have a number of compounding negative effects on each other.

- These negative effects have repercussions not only for municipal governments. They also have repercussions for individual ratepayers and residents, businesses, voluntary organizations, other local authorities, provincial governments, federal governments, and Aboriginal governments.

1. Problematic Demographic & Economic Trends

What are the problematic trends?

- Municipal renewal is required because, among other things, there are some major economic and demographic trends that are having and will continue to have significant negative effects not only on municipal governments, but also on their communities, and the individuals, businesses, and organizations therein.

Nature of Demographic & Economic Trends

- These trends present problems and opportunities for all communities and municipal governments. Furthermore, trends are not uniformly problematic or opportune for all communities and municipal governments:
  - For some they are major problems with devastating effects;
  - For others they are minor problems with minor negative effects; and
  - Still for others, they are not a problem, but opportunities that need to be managed.

- Furthermore, for any particular community or municipality they could present either minor or devastating problems in some respects and opportunities in other respects. Whatever the precise effect is on any particular community or municipality in this province, the following trends have major implications for all of them, as well as other governments, various organizations, various businesses, and individual ratepayers and residents.

1.1 Demographic Trends

What demographic trends are problematic?

- There are two major categories of demographic trends that affect municipal governments:
  1. Population migration trends; and
  2. Population composition trends.

(i) Population Migration Trends

- There are two major population migration trends that have significant implications for municipal governments and their communities.

Out Migration

- The first population migration trend having a major effect on the municipal system is out-provincial migration. The out migration of people from Saskatchewan to other provinces and countries has a negative effect on the population and economic bases of most, if not all municipalities in this province (see Appendix 1.1).

Intra-Provincial Migration

- The second population migration trend having a major effect on the municipal system is intra-provincial migration. Intra-provincial migration is at least as important as out of province migration in terms of the effects it has on municipal governments and their communities.
- The migration of people from rural and small urban areas to larger urban areas continues to be a major trend in this province. Indeed, it seems to be a trend that is increasing in scope over time and will likely continue to do so in the near and more distant future (see Appendix 1.2).
- The most significant migration trend is what might be termed the "urbanization" of the population, as people from rural and small urban areas are moving to an increasingly smaller number of large urban communities, and particularly, the largest towns and cities.

(ii) Population Composition Trends

- There are two major population composition trends that have significant implications for municipal governments and their communities.

Age Composition

- The "population age composition" trend is not uniform for all municipalities. Whereas the average age for the population in some municipalities is increasing substantially with each passing year, the average age for municipalities in other municipalities is either staying the same or decreasing substantially (see Appendix 1.3).
- The "population age composition" trend has significant implications for municipal governments and their communities. The average age of the population of various municipalities, as well as the precise distribution of various age groups within each of them, have significant implications for:
  - The types and levels of services that municipalities are required to provide; and
  - The ability of municipalities to provide those services in meeting the needs of various age groups.

Ethnocultural Composition

- The major "ethnocultural composition" trend that has significant implications for municipal governments and their communities is what might be termed the "Aboriginalization" trend.
- This refers to the rapidly increasing size and proportion of the Aboriginal population in this province. Indications are that this will likely continue to occur for at least the next few decades (see Appendix 1.4).

- The increasing size and proportion of the Aboriginal population in this province does not affect all municipal governments and their communities equally. Nevertheless, they are all affected in some manner either directly or indirectly.

- The increasing size and proportion of the Aboriginal population in this province is significant for municipal governance in several major ways:
  - It requires more municipal governments to understand that Aboriginal issues are no longer, if they ever were, just the issues of the federal and provincial orders of government.
  - It requires more municipal governments to be responsive to the needs and preferences of their Aboriginal residents.
  - It requires more municipal governments to be sensitive to the needs and preferences of their neighbouring Aboriginal governments.
  - It requires more municipal governments to engage in partnerships and activities with Aboriginal governments that are mutually beneficial for both of them.
  - It requires the provincial and federal governments to consider two key matters to ensure that Aboriginal and municipal governments are able govern effectively in relation to each other:
    - The types of statutory and non-statutory frameworks that they must establish within the scope of their respective jurisdictions; and
    - The types of statutory and non-statutory frameworks that Aboriginal and municipal governments should establish within the scope of their own respective jurisdictions.

1.2 Economic Trends

What economic trends are problematic?

➢ The major economic trends that affect municipal governments include:

Changes in Nature of Economy

- The nature of the provincial economy has changed from one that was primarily agricultural and natural resource based to a more diversified economy.

Changes in Commodity Prices

- The levels of agricultural and non-agricultural commodity prices fluctuate wildly. Such fluctuations have major implications for governments, businesses and individuals in this province.

Changes in Patterns & Modes of Transportation

- There have been major changes in the modes of transportation for agricultural commodities and other materials (i.e., shift from railways to roadways, and shifts from some roadways to others).

Changes in Patterns & Modes of Trade and Commercial Interactions

- There have been major changes in the location of commercial & industrial enterprises both in the agricultural and non-agricultural sectors (e.g., elevators, industries, and major department stores).
- There have been major changes in the modes that are used for trade and commercial interactions as a result of advances in technology and transportation.
- There have been major changes from local to regional economies resulting from changes to the patterns and modes of commercial interactions.

2. Problematic Structural Framework

What are the problematic features of the municipal system?

➢ There are two striking features of Saskatchewan's municipal system that have considerable implications on the need for renewal. These are:

- The fragmented nature of the structural framework; and
- The diverse nature of the structural and statutory frameworks.

➢ Each of these is discussed in turn below.

2.1 Fragmented Nature of Structural Framework

➢ Saskatchewan's system of municipal government is highly fragmented. Indeed, Saskatchewan has one of the most fragmented municipal systems in Canada, particularly at the structural level. Such fragmentation is evident in at least four key elements of the system:

(a) Structure
(b) Jurisdiction
(c) Functions
(d) Finances

➢ Some degree of fragmentation and diversity within a municipal system is inevitable. Indeed, as suggested by some academic experts of municipal government, some degree of fragmentation and diversity is necessary and beneficial both from a governance and planning and development standpoint.

➢ Such experts point to benefits such as increased choice for individuals in locating their residence or business based on their preferences for certain levels of services, taxation, and type of municipal governance. Invariably, however, even such experts acknowledge that there is a limit to the degree of fragmentation and diversity that is necessary and beneficial.

➢ It is debatable whether any of them would find the inordinate degree of fragmentation and diversity within Saskatchewan's municipal system as necessary and beneficial from the standpoint of good governance, good planning and development, or good service delivery.

(a) Fragmented Structure

➢ The fragmented nature of the municipal system is most evident in its highly fragmented structure. Saskatchewan has approximately 1000 municipal units:

- 836 fully incorporated municipalities; and
- 170 quasi-municipalities (i.e., organized hamlets and settlements).

➢ Structurally, Saskatchewan has the second most fragmented municipal system in the country. Only Quebec has more municipalities (See Appendix 2.2). Saskatchewan's 836 municipalities are approximately:

- 250 more than Ontario,
- 450 more than Alberta,
- 500 more than Newfoundland,
- 600 more than Manitoba,
- 700 more than BC and New Brunswick, and
- 750 more than Nova Scotia and PEI.

➢ Moreover, Saskatchewan has many more municipalities than provinces with total population sizes that are approximately:

- the same as Saskatchewan's (e.g., Manitoba);
- 3-4 times larger than Saskatchewan's (e.g., B.C. and Alberta); and
- 10 times larger than Saskatchewan's (e.g., Ontario).

- Saskatchewan has the lowest population per municipality (1,225) of any province (See Appendix 2.2). Most other provinces have populations per municipality in the following ranges:
  - 5,000-8,000 (Quebec, Manitoba, New Brunswick and Alberta), or
  - 17,000-25,000 (Nova Scotia, British Columbia, and Ontario).

(b) Fragmented Jurisdiction

- The fragmented nature of the municipal system is also evident in the fragmented nature of municipal jurisdictional authority and autonomy among the approximately 1000 units including 836 municipal governments and the 170 quasi-municipal units (e.g., organized hamlets).

- Additional fragmentation also results because some of authority of municipal governments is delegated to various inter-municipal authorities that are established to deal with various matters across municipal boundaries. This includes for example:
  - Agricultural Diversification & Development Boards;
  - Area Transportation Planning Authorities;
  - Conservation and Development Area Authorities;
  - Emergency 911 Districts;
  - Irrigation Districts;
  - Regional Economic Development Authorities; and
  - Regional Library Authorities.

(c) Fragmented Functions

- The fragmented nature of the municipal system is also evident in the fragmentation of municipal functions. The structural fragmentation contributes to a fragmentation of functions among the 1000 municipal units. Each of them tries to perform various governance, planning, development, and service delivery functions. The result is that the performance of any given municipal function could involve all 1000 municipal units. Such fragmentation may be valuable in dealing with some matters locally, but problematic in dealing with those that must be dealt with on a broader area basis.

(d) Fragmented Finances

- The fragmented nature of the municipal system is also evident in the fragmentation of municipal finances. The finances are fragmented among the 1000 municipal units. Each of them has a separate and distinct pool of financial resources. This creates 1000 separate and distinct pools of financial resources in the province.

- The sheer number of such pools results in the distribution of a limited amount of resources so widely and thinly that in many of those pools, there are insufficient resources to grow anything substantial. Indeed, the resources may well be evaporating without any growth at all.

- In addition to being distributed thinly and widely, invariably those resources are not distributed equitably among the 1000 municipal units. This poses major challenges for many municipal governments and their communities in performing their governance, planning, development, and service delivery functions.

- The obvious questions that must be asked are:
  - "Would there be a benefit to the concentration of those financial resources into fewer pools?"
  - "What would be the optimal number of pools?"

2.2 Diverse Nature of the Structural Framework

- The municipal system is very diverse or differentiated, rather than uniform or standardized. Diversity is evident in at least eight key elements of the system:
  - (a) **Types**
  - (b) **Incorporation Criteria**
  - (c) **Population Size**
  - (d) **Diverse Geographic Size**
  - (e) **Jurisdiction**
  - (f) **Functions**
  - (g) **Finances**

(a) Diverse Types

- Saskatchewan has many different types of municipalities and quasi-municipalities or communities, particularly in the Urban and Northern components of the municipal sector.
  - In the Urban component there are: Cities, Towns, Villages, and Resort Villages.
  - In the Northern component there are: Towns, Villages, Hamlets and Settlements.
  - In the Rural component there are: Rural Municipalities, Organized Hamlets, and Hamlets.

(b) Diverse Incorporation Criteria

- Each type of municipality has different criteria for incorporation.

- The population criteria vary from a population of 100 for some types of municipalities, to 500 for others, and 5000 for cities. Moreover, some of the smaller types of municipalities (e.g., villages, resort villages, and hamlets) have a minimum number of dwellings criterion which, indirectly at least, could be considered to constitute a "minimum assessment base" criterion.

- By contrast, rural municipalities do not have any population or assessment criteria for incorporation.

- Most rural municipalities were incorporated on the basis of the criteria that was laid out in the original 1908 Rural Municipalities Act which included a minimum geographic size of 324 square miles and a "minimum population density" of 1 person per square mile.

- Those criteria for rural municipalities were eliminated and no other criteria have been included in the current legislation.

- Incorporation of rural municipalities under the current act is strictly a matter of ministerial discretion and approval. This means that it is up to the Minister responsible for municipalities to determine what, if any, criteria or considerations to apply in incorporating rural municipalities.

(c) Diverse Population Size

- The municipal sector is also diverse in terms of the population size of municipalities. Such diversity not only exists between the three major categories of municipalities, but also within them. This is evident in the population characteristics and population ranges for various types of municipalities.

  - Appendix 2.5 reveals that:
    - 20% (166) have a population less than 100 people;
    - 32.3% (269) have a population less than 200;
    - 65% (542) have a population less than 500;
    - 87% (626) have a population less than 1000; and
    - 95.6% (699) have a population less than 2000.

  - Appendix 2.5 also reveals that only:
    - 13% (110) have a population larger than 1000 people; and
    - 4.4% (37) have a population larger than 2000.

(d) Diverse Geographic Size

- Municipalities are also diverse in terms of their geographic size. This is true of all types of municipalities. Such diversity exists among urban, northern, and rural municipalities. Among rural municipalities, for example, one finds a wide geographic range between the smallest municipality at 418 square km. and the largest municipality at 12, 482 square km. (See Appendix 2.8).

(e) Diverse Jurisdiction

- The municipal system is also diverse in terms of the jurisdictional authority and autonomy. Not all municipalities have the same authority and autonomy. There are matters for which certain types of municipalities are entitled to exercise authority and autonomy but other municipalities are not. This ranges from financial matters such as assessment and taxation, to bylaw making powers, to the types of entrepreneurial ventures that they can undertake

(f) Diverse Functions

- The system is also diverse in terms of the functions of different types of municipalities. Such diversity occurs in at least two ways. First, in the functions that are specified within the legislation that various types of municipalities must or may perform. Second, in the function that various types of municipalities ultimately need or choose to perform (See Appendices 3.1 and 3.2).

- This diversity is also evident among the same type of municipalities in terms of the precise functions that they perform. Invariably, some municipalities perform more and some perform fewer functions or at the very least they perform somewhat different functions.

- Similarly, there is considerable difference in the extent to which various municipalities are willing to contribute financially in sharing the costs of performing certain functions (i.e., services or facilities) performed by a neighbouring municipality but which benefits or is used by residents of both municipalities.

- The foregoing type of diversity leads to uneven coverage in the type and level of services provided by various municipalities.

- Such uneven coverage can be more than a problem of uneven servicing of residents in various municipalities. Ultimately, particularly where protective services are concerned (e.g., emergency, fire, and policing) it could pose a danger for residents of all municipalities in matters of life and death.

- If there were no other reason to consider the need for municipal renewal, this would certainly be a very important one.

(g) Diverse Finances

- There is also diversity in the finances within the municipal sector. This is evident in at least two key areas of finances.
  - Revenue bases of municipalities; and
  - Assessment bases of municipalities

- First, there are differences in the financial bases available to municipalities depending on the nature of their economy and natural resource base.
  - Some municipalities are blessed with some lucrative natural resource revenue sources and others have none.
  - Some municipalities have considerable revenues from various utilities, and some have none (See Appendices 4.1 and 4.2).

- Second, and closely related to the first, there is also considerable diversity in the property tax assessment bases for various municipalities.
  - Whereas some have very large assessment bases, others have very small assessment bases.
  - Such differences exist as much among a particular type of municipality as they do between the different types of municipalities.

- The diverse nature of the assessment base in various types of municipalities is clearly evident in Appendix 4.3.

3. Problematic Statutory Framework

What are the Problematic Features?

- There are several major features of the municipal statutory framework that are problematic. The problematic features and effects of the statutory framework become amply evident in the section of this report on the 'Nature of Renewal' most of which is devoted to various problematic features of the existing statutory framework. The objective here, therefore, is simply to provide an overview of the general problems and their effects.

3.1 Not Fully Developed

- The section on the 'Nature of Renewal' reveals that the current statutory framework is not fully developed. This is evident in the additional provisions and principles that are required and are highlighted in that section of the report related to:
  - The purpose, functions, powers, status, finances, forms, and processes of local municipal governments; and
  - The lack of any statutory provisions on framework on any form of regional governance comparable to those contained in municipal legislation of other provinces and territories.

3.2 Not Fully Integrated

- The section on the 'Nature of Renewal' also reveals that the current statutory framework is not fully integrated. This is evident in, among other things, three key facts:
  - The fact that there are three core acts.
  - The fact that election provisions for rural municipalities are in one statute and those for urban and northern municipalities are in another.
  - The fact that there is an array of statutes that impinge directly on municipalities but they are separate and distinct acts.
- The obvious question here is: 'Do all such acts need to be separated, or is some integration possible and beneficial'?

3.3 Not Fully Consonant

- In addition to not being physically integrated, the various municipal acts are not fully integrated or consonant in terms of some important principles and provisions that impinge on efforts at cooperation, coordination and consolidation across the different acts between the different types of municipalities.
- Such problems have become amply evident as the Municipal-Provincial Roundtable started to explore some of the impediments or obstacles to 'voluntary amalgamation'. That initiative revealed that there are some very real and substantial impediments or obstacles resulting from statutory provisions that preclude the possibility of amalgamation between certain types of municipalities.

3.4 Not Well Organized or Formatted

- The statutory framework is not well organized or formatted. This is the least of the problems, but it is not insignificant. As noted in the section on the "Nature of Renewal' in this report, there are organizational and formatting issues that must be addressed in order to make the statutory framework clearer, more readable, and more useful.

3.5 Not Meeting the Different Needs of Different Types of Municipalities

- One of the most significant problematic features of the statutory framework is that it does not meet the different special needs of the different type of municipalities.

- In other words, it is not sufficiently attuned to the different special or unique statutory needs of the different types of municipalities in terms of, among other things, their purposes, functions, powers, and finances.

- If the municipal system continues to be highly diverse, then it may require a highly diverse statutory framework to meet the special needs of the different types of municipalities.

- Conversely if the municipal system becomes more uniform or standardized over time, the need for a diverse statutory framework with different sets of purposes, functions, powers, and finances for each type of municipality will diminish.

3.6 Not Fully Applied or Enforced

- In addition to all the problems outlined above regarding problems stemming from the nature of the statutory framework, another major problem is in the application and enforcement of that framework.

- There are provisions in the municipal statutory framework that are not always applied or enforced as required.

- An important case in point are the 'implicit' provisions that when a municipality no longer meets the basic incorporation criteria for that particular type of municipality, it is to revert to the type of municipality or quasi-municipality for which it meets the basic incorporation criteria or conditions. There are approximately 170 municipal entities that should be subject to reversion if the legislation were applied and enforced.

4. Effects of Problematic Trends and Frameworks

What are the effects of the problematic trends and features?

- The economic and demographic trends, together with the problematic features of the structural and statutory frameworks of the municipal system, have many negative effects on Saskatchewan's municipal governments as well as their communities and economies. This includes the following five major categories of effects:
  1. **Incompatibilities**
  2. **Imbalances**
  3. **Inequities**
  4. **Inter-Municipal Spillovers**
  5. **Increased Costs**

- These major effects are discussed, in turn, below.

4.1 Incompatibilities

What are the incompatibilities?

- The first major set of effects of various economic and demographic trends are "incompatibilities" or misalignments between the structural nature the municipal system and the structural nature of communities and economies.

Local Municipalities Versus Regional Communities & Economies

- Whereas, the municipal system is structured or organized largely on a local basis (i.e., with one municipal government per community and local economy) the current and emerging communities, economies and even many governing frameworks are, or are being, structured or organized largely on a regional basis.

- The incompatibilities between the regional nature of communities and economies on one hand and the local nature of the municipal system on the other are likely to increase in the near and distant future.

- Even a very well organized and highly directed campaign for "localism" and against "regionalism" is unlikely to slow down the movement toward regionalization, and reduce the scope of the incompatibility.

(a) Regionalization of Economies & Communities

- The regionalization of communities is clearly evident in the regional dynamics in three key areas:

(i) Regionalization of Commercial Sector

Regionalization of Commercial Sector

- The regionalization of the commercial sector is evident in the emergence of 'regional commercial services centres' in various parts of the province. The various commercial entities are based in these centres to provide services to individuals and groups in the region.

(ii) Regionalization ofNon-Commercial Sector

Regionalization of Non-Commercial Sector

- The regionalization of the non-commercial sector is evident in the emergence of 'regional non-commercial service centres' in various parts of the province. Various non-commercial organizations that are based in these centres provide services to individuals and groups in the region. Examples of this are regional offices for governmental and non-governmental organizations. Ironically, even the offices of several rural municipalities are in these regional centres.

(iii) Regionalization of Social, Cultural & Recreational Sector

Regionalization of Social, Cultural and Recreational Centres

- The regionalization of the social, cultural, and recreational sector is evident in the 'regional social, cultural and recreational centres' in various parts of the province. These are not just buildings, but places where individuals within a given region go to engage in social, cultural, and recreational activities.

Question:

- In light of the regionalization of economies & communities the following question emerges:
  - Should the municipal system continue to operate largely on a **'local basis'**, while economies and communities are operating largely on a **'regional basis'**?

(b) Regionalization of Governance

- The current and emerging regionalization of governance is clearly evident in the emergence of regional governing entities or authorities both inside and outside the municipal sector.

- The regionalization dynamics outlined above are by no means new to Saskatchewan. The major difference between the regional dynamics of today and tomorrow as compared to those in the past is simply one of geographic scale.

- The regional dynamics of the past occurred on a much smaller geographic scale, than the regional dynamics of today and tomorrow. The regional boundaries have expanded constantly as the means and modes of transportation and communication have improved over time.

(i) Regionalization of Governance Inside the Municipal Sector

Regionalization Inside Municipal Sector

- Inside the municipal sector this is evident in the emergence of various formal and informal governing frameworks designed to foster and facilitate inter-municipal coordination and cooperation (e.g., REDAs, Community Futures, Parks and Recreation Boards, Area Transportation Planning Committees, etc.).

- The sharing of facilities, administrators and equipment among neighbouring municipalities is also evidence of the regionalization of governance, management and service delivery.

(ii) Regionalization of Governance Outside the Municipal Sector

Regionalization Outside Municipal Sector

- Outside the municipal sector this is evident in the emergence of various regional non-municipal authorities (e.g., Education, Health, etc.).

Question:

- In light of the regionalization of governance dynamics inside and outside the municipal sector, the following question emerges:
  - Should the bulk of the municipal system continue to operate largely on a **"local basis"**, while other parts of it and other forms of governance are operating largely on a **"regional basis"**?

4.2 Imbalances

What are the imbalances?

- ➢ The second major set of effects of the economic and demographic trends is "imbalances". This refers to the imbalances in several important bases of municipalities and communities created by economic and demographic shifts.

(a) Imbalances in the economic bases of municipalities & communities

Imbalanced Economic Bases

- ➢ The first type of imbalances occurs in the economic bases of municipalities and communities. Whereas some municipalities and communities have large and expanding economic bases, others have small and shrinking or stagnant economic bases.

(b) Imbalances in population bases of municipalities & communities

Imbalanced Population Bases

- ➢ The second type of imbalances occurs in the population bases of municipalities and communities. Whereas some municipalities and communities have a large and expanding or even booming population base, others have a small and shrinking or stagnant population base.

(c) Imbalances in organizational capacities of municipalities & communities

Imbalanced Organizational Capacities

- ➢ The third type of imbalances occurs in the organizational capacities of municipalities and communities. The imbalances in economic and population bases noted above create, in turn, major imbalances in the organizational capacities of municipalities and communities.

- ➢ Organizational capacities refer to, among other things, the financial and human resources available to municipalities as well as their jurisdictional power.

- ➢ The imbalance in such capacities results in the following three other closely related types of imbalances in capacities:
  - Imbalances in Governance Capacities;
  - Imbalances in Service Delivery Capacities; and
  - Imbalances in Planning and Development Capacities.

(d) Imbalances in Governance Capacities of Municipalities & Communities

Imbalanced Governance Capacities

- ➢ Imbalances in the organizational capacities of municipalities contribute to imbalances in governance capacities. In other words, they contribute to differences in the type of governance structures and processes that various municipalities can establish and operate effectively. This includes various types of communication, consultative, advisory and appeal mechanisms and processes that are crucial for good governance.

(e) Imbalances in Service Delivery Capacities

Imbalanced Service Delivery Capacities

- Imbalances in the organizational capacities of municipalities also contribute to imbalances in service delivery capacities. In other words, they contribute to differences in the type and level of services that various municipalities can establish and deliver effectively. This includes various types of infrastructure services and community services that are crucial for communities and their economies.

(f) Imbalances in Planning and Development Capacities

Imbalanced Planning & Development Capacities

- Imbalances in the organizational capacities of municipalities also contribute to imbalances in planning and development capacities. In other words, they contribute to differences in the type and level of effective planning and development that can be undertaken in various municipalities.

- This includes various types of planning and development, but most notably economic planning and development, land use planning and development, community planning and development, recreational and cultural planning and development, and environmental planning and development.

- The effective performance of these planning and development functions are absolutely critical for the future of local, regional, and provincial communities and economies in Saskatchewan.

Summary

Summary of Imbalances

- In summary, there are several imbalances within the municipal sector. Unless some major initiatives are undertaken to equalize all of the aforementioned imbalances, some municipalities and communities will have extensive financial, organizational, and development capacities, and others will have only nominal capacities.

- Should such equalization be the responsibility of the provincial government or of municipal governments? If it remains the responsibility of the provincial government, which of the following mechanisms should it use for equalization purposes?
  - The periodic transfer of funds from well resourced to poorly resourced municipalities by the provincial government.
  - The consolidation of neighbouring municipalities within a region so that well resourced and poorly resourced communities within a region may pool and share their resources more equitably without any interference by the provincial government.

Question:

- The key question here is whether either the **"Region"** or **"Regina"** should deal with issues of imbalances, equalization and equity.

4.3 Inequities

What are the inequities?

- The third major set of effects of various economic and demographic trends is "inequities" among residents and ratepayers in various neighbouring and non-neighbouring municipalities and communities.
- This includes at least three major types of inequities.

(a) Service Inequities

Service Inequities

- First, those trends create inequities in the level and quality of services provided and received. Some municipalities are able to provide a higher level and quality of services to their residents due to the effects of, among other things, various economic and demographic trends.

(b) Taxation Inequities

Taxation Inequities

- Second, those trends also create inequities in the taxation levels for services provided and received. Some municipalities are much more able than others to provide a higher level and quality of services to their residents at a much lower taxation (or user fee) rate largely due to the effects, of among other things, various economic and demographic trends.

(c) Development Inequities

Development Inequities

- Third, those trends also create inequities in the development opportunities of various municipal governments and communities.
- Whereas the development opportunities of some municipalities and communities are increased substantially, the opportunities for others are diminished substantially.
- The major problem here is that the development opportunities are increasing only for a limited number of municipalities and communities, and they are decreasing for many others largely due to, among other things, the various economic and demographic trends noted above.
- The inequities in development opportunities are likely to compound the inequities in the levels of services and taxation and user fees of individuals and businesses in the various parts of the province.
- Whereas some residents and ratepayers in some municipalities will have higher taxes and lower services, those in other municipalities will have lower taxes and higher services.

4.4 Inter-Municipal Spillovers

What are the inter-municipal spillovers?

- The fourth major set of effects of various economic and demographic trends and the problematic features of the municipal system are inter-municipal spillovers. This refers to the effects that what one municipal or non-municipal jurisdiction does has for others either in terms of costs or benefits.

- Various economic and demographic trends have increased the number and scope of such spillovers to date and will continue to do so in the future. The reason for this is that the nature of various contemporary economic and demographic trends make it very difficult to contain the costs and benefits within the boundaries of the relatively small municipal units that were designed nearly a century ago based on economic and demographic trends of that time.

- There are at least two broad categories of such spillovers:
  - Economic spillovers; and
  - Environmental spillovers.

- The type of economic and environmental activities that take place in some municipalities will have costs and benefits for their neighbouring municipalities.

- Examples of such costs are those in areas of transportation, emergency services, protective services, water and waste management services, and environmental protection services.

- Examples of such benefits are increased population, increased tax base, and the reduced need for a given municipality to provide certain services and programs that are needed or preferred by its residents and ratepayers if they are already provided and made accessible by a neighbouring municipality.

- Invariably, such costs and benefits resulting from spillovers raise questions among neighbouring municipalities and their respective ratepayers and residents regarding who benefits and who pays for various things. This then becomes an issue of fairness and equity.

4.5 Increased Costs

What types of increased costs?

➢ The fifth major set of effects of the aforementioned problematic economic and demographic trends and the problematic features of the municipal system are increased costs. The nature of the current municipal system contributes to an increase in two major types of costs for municipalities:

- Operational Costs; and
- Opportunity Costs.

Increased costs for whom?

➢ The increased operational and opportunity costs are not incurred only by municipal governments. They are also incurred by:

- Ratepayers & residents;
- Businesses;
- Organizations; and
- Other governments.

(a) Increased Costs for Municipalities

➢ The current system has some significant operating and opportunity costs for municipal governments.

(i) Increased Operating Costs for Municipalities

Increased Operating Costs for Municipalities

➢ The first major types of increased costs are "operating costs." Operating costs are those that are incurred by municipal governments and others in operating either within or in relation to the current municipal system. There are three major sub-categories of operating costs:

- Those that stem from operating municipalities;
- Those that stem from paying for services that are provided by municipalities; and
- Those that stem from having to deal with different municipalities in getting certain things done. These are sometimes referred to as coordination costs.

➢ The problematic nature of the current municipal system creates some additional operating costs for municipal governments both on an individual and collective basis. They have many different types of expenses for which there is either unnecessary duplication, or an inability to achieve potential savings through economies of scale for various expenditures such as bulk purchasing, and the sharing of facilities, staff, equipment, or services.

➢ Although some municipalities have undertaken some interesting and important initiatives in the aforementioned areas, their nature and scope are far from optimal as it could or should be throughout the province.

(ii) Increased Opportunity Costs for Municipalities

Increased Opportunity Costs for Municipalities

➢ Opportunity costs are the other major types of costs that are incurred as a result of problematic economic and demographic trends and the problematic features of the municipal system. They are those costs incurred when valuable opportunities are lost due to, among other things, constraints imposed by the nature of the current municipal system, or the financial management and development choices made by those in the system.

- These are very important and substantial costs. Indeed, opportunity costs are probably far more significant than many operational costs.

- Unfortunately, despite their importance, opportunity costs are often overlooked in calculations and debates regarding the relative merits of the current municipal system versus the merits of a renewed municipal system. Part of the reason that they are overlooked is that they are difficult to identify and quantify. Part of the reason that they are difficult to identify is that there are contending visions regarding what municipal governments, either individually or collectively should and could be doing that would not only benefit them, but also their communities, residents and ratepayers.

- In assessing the relative merits of the status quo versus various models for renewing the municipal system, the Task Force encourages everyone to devote as much, if not more, attention to these particular types of costs than to operating costs.

- There are at least two major categories of opportunity costs for municipalities that they incur due to the problematic nature of the municipal system:
  - Opportunity Costs in Service Delivery; and
  - Opportunity Costs in Development.

1. Opportunity Costs in Service Delivery

Opportunity Costs in Service Delivery

- Municipalities incur opportunity costs in service delivery because there are some services that they are unable to provide or to provide as well as they otherwise could because of the problematic nature of the municipal system.

2. Opportunity Costs in Development

Opportunity Costs in Development

- Municipalities incur opportunity costs both in community and economic development because there are development opportunities that they are unable to seize upon or to seize upon as well as they otherwise could because of the problematic nature of the municipal system.

(b) Increased Costs for Others

- The problematic economic and demographic trends and the problematic features of the municipal system do not increase operational and opportunity costs only for municipal governments. To varying extents, either directly or indirectly, they also increase both operational and opportunity costs for the following:
  - Residents and Ratepayers;
  - Business Organizations;
  - Voluntary Organizations;
  - Local Governing Authorities;
  - Provincial Government;
  - Federal Government; and
  - Aboriginal Governments.

(i) Operating Costs for Ratepayers and Organizations

Operating Costs for Ratepayers & Organizations

- In the case of operational costs, residents and ratepayers, business organizations, and voluntary organizations, either have to pay higher levels of taxation or user fees for services and/or the quantity or quality of services they receive are reduced.

(ii) Operational Costs for Other Governments

Operating Costs for Other Governments

- Similarly, various governing authorities and governments end up having to spend more money in communicating, negotiating, and partnering with municipal governments in such a highly fragmented system.

(iii) Opportunity Costs for Ratepayers and Organizations

Opportunity Costs for Ratepayers & Organizations

- In the case of opportunity costs, residents and ratepayers, business organizations, and voluntary organizations, are all unable to capitalize on certain opportunities due to challenges or obstacles posed by the highly fragmented nature of the municipal system. For residents this might mean lost employment and entrepreneurial opportunities, for business organizations it might mean lost business opportunities, and for voluntary organizations it might mean lost servicing and development opportunities.

(iv) Opportunity Costs for Other Governments

Opportunity Costs for Other Governments

- Similarly, various governments cannot capitalize as easily on certain opportunities due to the challenges and obstacles posed by the highly fragmented nature of the municipal system. This includes a range of opportunities related to their respective missions and mandates. The most notable of these are lost opportunities related to their own:
    - Servicing initiatives;
    - Community Development initiatives; and
    - Economic Development initiatives.

- Having to deal with such a fragmented municipal system, invariably has one of the following effects on other governments who are trying to initiate or implement their respective initiatives:
    - It leads to delays in certain initiatives;
    - It leads them to abandon certain initiatives; and
    - It leads them not to consider certain initiatives.

- The problematic economic and demographic trends, together with the problematic features of the system impose extra operating and opportunity costs on all of the aforementioned individuals, organizations, and governments.

- To reiterate, the most significant costs could well be the opportunity costs. The net effect of these opportunity costs (or lost opportunities) is the underdevelopment of local, regional, and provincial communities and economies. A fundamental goal of renewal is to determine how those costs can be reduced.

Summary

5. Summary and Key Questions on Need for Renewal

- In summary, the major thrust of this section has been that renewal is needed due to the substantial negative effects being produced for communities and their municipal governments by a combination of:
    - Problematic economic and demographic trends;
    - Problematic features of the municipal structural frameworks; and
    - Problematic features of the municipal statutory frameworks

- Such negative effects include incompatibilities, imbalances, inequities, inter-municipal spillovers, and increased costs.

- Those effects are felt either directly or indirectly not only by municipal governments but also by each of the following:
    - Ratepayers and residents;
    - Business organizations;
    - Voluntary organizations;
    - Local Governing Authorities;
    - Aboriginal Governments;
    - Provincial Government; and
    - Federal Government

- It is important to reiterate that the problems in the municipal system stem from the problematic economic and demographic trends and problematic structural and statutory frameworks.

- They **do not** stem from the elected and appointed municipal officials operating within the municipal system.

- Indeed, given the substantial structural and statutory problems in the municipal system, and the challenges that it faces from outside trends and forces, it is remarkable that the system works as well as it does.

- The fact that it works as well as it does in serving communities is a testament to the dedication of elected and appointed officials, many of whom are essentially volunteers in the system who are nominally compensated for their efforts.

Key Questions

- The questions that emerge here are as follows:
  - What is the acceptable degree of incompatibilities, imbalances, inequities, and increased costs within the municipal sector? Has that acceptable degree been surpassed yet?
  - How will the negative effects of these incompatibilities, imbalances, inequities, and increased costs be managed?
  - Which order of government is best placed to manage these negative effects? Is it the provincial, federal, or municipal governments?
  - If municipal governments, either on alone or in conjunction with the provincial and federal governments, are best placed to manage these negative effects, what form of municipal governments could best manage them? Is it the existing municipal governments either in their current form or in some modified form, or is it completely new forms of municipal government? If the answer is either modified or new forms, of municipal governments, then precisely what forms should they take?
- Those are just a few of the fundamental questions that must be addressed as part of the municipal renewal process.
- Given the foregoing overview of various challenges and problems facing municipal governments and their communities from outside and inside the municipal system, the key questions to consider are:
  - Are these sufficiently important and significant reasons to undertake municipal renewal?
  - How much attention should be devoted to the structural problems of the municipal system?
  - How much attention should be devoted to the statutory problems of the municipal system?
  - Given the problems identified in this section, what should be the goals of any municipal renewal that is undertaken?

Task Force's Answers

- The Task Force's answers to those questions are as follows:
  - There are sufficiently important and significant reasons to undertake renewal. Neither the status quo, nor minor tinkering, are positive or constructive options for the future of the local, regional and provincial communities and economies in Saskatchewan in the 21st century.
  - In undertaking municipal renewal, substantial attention should be devoted both to the structural as well as the statutory problems in the municipal system, as well as anything outside the municipal system that has a substantially negative effect on municipal governance.
  - The central goal of municipal renewal should be to eliminate the structural and statutory problems within the municipal system identified in this section of the report, because the future of the local, regional, and provincial communities depends on it.

PART THREE: NATURE OF MUNICIPAL RENEWAL

- This section of the report focuses on the nature of renewal within the following eleven major areas or elements of the municipal system in Saskatchewan:

I. **Municipal Legislation**
II. **Municipal Status**
III. **Municipal Purpose**
IV. **Municipal Functions**
V. **Municipal Powers**
VI. **Municipal Finances**
VII. **Municipal Governance**
VIII. **Municipal Management**
IX. **Municipal Classification**
X. **Municipal Processes**
XI. **Municipal Regional Governance**

I. MUNICIPAL LEGISLATION

Introduction

KEY FOCUS

- This section of the report addresses four key issues:
  1. Nature of Core Municipal Legislation
  2. Consolidation of Core Municipal Legislation
  3. Consolidation of Related Municipal Legislation
  4. Formatting and Wording of Municipal Legislation

- The focus of this section of the report is on issues, options and potential directions regarding the nature and format of both the core and the related municipal legislation in Saskatchewan.

KEY IMPORTANCE

- One of the key objectives of municipal renewal should be substantial improvement to all 'core' and 'related' municipal legislation. In addition to the various specific elements of municipal legislation that should be renewed, which are discussed in subsequent sections of this report, careful attention should also be devoted to the fundamental nature and general format of the statutory framework. The nature and format of the statutes have major implications for the ability of municipal officials as well as the ratepayers and residents to use them effectively and efficiently for their respective purposes.

KEY THEMES

- The central theme of this section is that the nature, formatting, and wording of the current municipal legislation should be improved.

- The key theme regarding how the nature of municipal legislation should be improved is that consideration should be given to altering its fundamental characteristic from a relatively detailed 'regulatory framework' to a relatively general 'policy framework'. Such a general 'policy framework' should:
  - Capture the essential facets of key issues related to the status, purpose, functions, powers and duties, finances, and governing and management frameworks of municipal governance; and
  - Be comparable to what is found in some of the new municipal legislation in other provinces that is modelled on 'policy frameworks' rather than 'regulatory frameworks.'

- The key theme regarding the consolidation of core and related municipal legislation is that consideration should be given to the following:
  - The consolidation of core municipal legislation into a general Municipal Act;
  - The consolidation of related statutes with core statutes;
  - The consolidation of related statutes as much as possible; and
  - The use of special municipal statutes or municipal charters to meet the needs of either any particular categories or types of municipalities, or any particular municipality when necessary.

- The key theme regarding the formatting and wording of municipal legislation is that consideration should be given to the use of all of the following:
  - Modern formatting;
  - Thematic organization;
  - Comprehensive tables of contents and indexing; and
  - Plain language.

KEY ISSUE

1. Nature of Core Municipal Legislation

KEY QUESTION

- *What directions should be taken regarding the nature of core municipal legislation in Saskatchewan?*

KEY FACTS

- Saskatchewan's municipal legislation is relatively *prescriptive* in nature in that municipal governments generally do not have the power to do anything except what is specifically stated in the legislation.

- Saskatchewan's municipal legislation is also relatively detailed in nature in that it contains a considerable amount of detailed regulatory types of provisions that are not always found in comparable statutes of some other provinces.

KEY PROBLEMS

- Municipal legislation is perceived as being relatively prescriptive and restrictive. Municipal officials feel that their powers are limited and that they require too many provincial approvals to do anything that is not specifically stated in the legislation. They indicated that the nature of the legislation creates problems for municipal governments both in undertaking certain initiatives and in defending their jurisdictional authority when it is challenged in the courts.

KEY VIEWS

- Previous reports and studies of municipal governance have recommended changes to the nature of municipal legislation.
    - The 1996 Memorandum of Understanding between SARM, SUMA and the Department of Municipal Government recommended the elimination of the existing legislative provisions and regulations that imposed "onerous and unnecessary" administrative burdens on municipalities.
    - SUMA's 1995 Task Force on Urban Government Renewal (TFUGR) recommended municipal legislation be revised to 'remove unnecessary restrictions and broaden enabling provisions,' in order to provide greater flexibility and "facilitate rather than regulate" municipal authority.
    - The 1993 report titled 'Inter-Community Cooperation and Community Quality of Life' recommended that municipal legislation be streamlined and simplified, and that more 'permissive' legislation be developed to allow greater municipal partnerships, particularly for regional service delivery.

- Submissions received by the Task Force from both municipal associations (SUMA, SARM), both municipal administrator association (UMAAS, RMAA) and the Saskatchewan City Mayors advocated that municipal legislation should be changed to allow for greater flexibility, less prescription and less regulation of municipal operations and the day-to-day activities of municipalities.

- Oral and written submissions to the Task Force indicated that municipal legislation should be less prescriptive and less restrictive in terms of what municipal governments can do and how they are to do it. They expressed a preference for more flexible legislation that allows broad municipal discretion and autonomy within their areas of jurisdiction. Toward that end, some indicated that it would be preferable to list what municipalities are not mandated or authorized to do, rather than all the things they are mandated or authorized to do.

KEY OPTIONS

- There are three key options for improving the nature of core municipal legislation:
  - **Option 1:** Retain Current Nature
  - **Option 2:** Reduce Prescriptive Nature of Core Municipal Legislation
  - **Option 3:** Create 'Policy Frameworks' Not 'Regulatory Frameworks'

Option 1

Retain Current Nature of Statutes

- Under this option the nature of both core and related municipal statutes would remain unchanged. Consequently, the current problems and dissatisfaction regarding the lack of clarity both on the roles and responsibilities of municipal governments and how they are to perform them, will continue requiring both ongoing assistance and advisory services by the provincial department responsible for municipal governance, and ongoing amendment of the municipal statutes.

Option 2

Reduce Prescriptive Nature of Municipal Legislation

- Under this option various provisions both in the core and in the related municipal legislation would be changed to ensure that municipal governments would have maximum flexibility and autonomy regarding matters within their jurisdiction.

- Detailed prescriptive provisions regarding procedures and processes would either be removed completely from core municipal legislation or included as default provisions to apply only where municipal governments choose not to adopt their own procedures.

- This option is not contingent upon, but may be more easily implemented in conjunction with, proposed directions regarding the enhancement of municipal powers through such measures as 'natural person powers' and 'spheres of jurisdiction'.

- Several provinces and territories including Alberta, British Columbia, Manitoba, Nova Scotia, Yukon and Northwest Territories have reduced the degree of prescription of their municipal legislation for all or some matters (such as internal financial management, bylaw making powers, etc.). They have done so both by the addition of either 'natural person powers' or 'spheres of jurisdiction', and by reducing the number of approvals.

Option 3

● Create 'Policy Frameworks' Not 'Regulatory Frameworks'

- This option is related to the previous option in that the core municipal statutes would consist of general provisions and principles regarding the purpose, powers, forms, functions, roles and responsibilities, finances, and governance of municipal governments.

- Many of the detailed provisions outlining how municipal governments operate within any of the above general areas would be removed from the core municipal legislation. Instead, such provisions would be included in related legislation or regulations that could be changed more easily without the need for statutory change. Further, some of the provisions could be removed entirely as a result of various statutory innovations such as 'natural person powers' and 'spheres of municipal jurisdiction'.

- Some provinces, including British Columbia, Alberta, Manitoba, and Nova Scotia have tried to make their core municipal statutes 'policy frameworks' rather than 'regulatory frameworks'. They have tried to do this as much as possible by removing lengthy regulatory provisions from core legislation and either placing them in related statutes and regulations or including them as schedules to their core statutes.

KEY DIRECTIONS

- **Consideration should be given to ensuring that core municipal legislation (i.e., general municipal acts) is designed to provide a general 'policy framework' for municipal governance rather than a detailed 'regulatory framework'.**

- **Consideration should be given to maximizing 'permissive' provisions and principles and minimizing 'prescriptive' or 'restrictive' provisions and principles both in the core and related municipal legislation.**

- **Consideration should be given to removing detailed 'regulatory provisions' from core municipal legislation and, if necessary, placing them in any one or more of the following:**
  (a) Schedules of core municipal legislation;
  (b) Related statutes;
  (c) Municipal charters; and
  (d) Municipal codes.

KEY RATIONALE

- Creating core municipal legislation that sets out the broad policy framework for municipal governance would help accomplish the following:
  - Clarify and establish clear principles regarding the purpose, status, powers, duties, forms, functions, finances, governance, and management of municipal governments;
  - Clarify the uniformity or variance among different forms and types of municipalities with respect to all or some of the above elements;
  - Clarify the relationship between municipal and provincial governments;
  - Improve the transparency and understanding of the municipal system for elected and appointed municipal officials, residents and ratepayers, businesses and organizations, other governments, and the general public;
  - Allow regulations and provisions regarding procedures, processes and practices to be changed more easily by reducing the need for involvement by the provincial legislature and statutory changes; and
  - Allow the creation of one "Municipal Regulatory Code" consisting of all related legislation and regulations that affect municipal governments.

- Ensuring that both core and related municipal legislation has maximum 'permissiveness' and minimum 'prescription' or 'restriction' would help accomplish the following:
  - Give all municipal governments have the right to govern to the best of their capacity and ability, with a minimum degree of prescription, restriction, or interference by the provincial government regarding certain matters within their jurisdiction;
  - Give all municipal governments have the broad statutory authority to develop their own policies, procedures, processes and practices regarding certain matters within their jurisdiction without requiring the assistance and involvement of the provincial government;
  - Complement proposed directions for enhancing municipal status, power, authority and autonomy outlined in other parts of this report; and
  - Complement the inclusion of special principles and provisions in municipal legislation such as 'natural person powers' and 'spheres of municipal jurisdiction.'

- One of the means of minimizing prescriptiveness is to allow municipal governments to supplement general municipal legislation with 'home rule charters.' The use of such individual municipal charters has the potential to do the following:
  - Allow those municipalities with the need, desire, capacity and ability to establish their own policies, procedures and practices regarding certain matters within their jurisdiction, while also providing some policies and regulations for those without the capacity;
  - Accommodate distinctions and differences in functions, finances, powers and duties among different types and sizes of municipalities;
  - Provide for greater flexibility in the governance, management and organization of municipalities, freeing some municipal governments from the constriction of provincial regulations that are designed to accommodate all types of municipal governments and authorities; and
  - Provide more customized policies, procedures, and practices for governance and management matters that are tailored to local preferences and needs.

KEY ISSUE

2. Consolidation of Core Municipal Legislation

KEY QUESTION

- *What directions should be taken regarding the number of core municipal statutes in Saskatchewan?*

KEY FACTS

- Saskatchewan currently has three core municipal acts or statutes – one for each major type of municipality:
  - *The Urban Municipality Act 1984;*
  - *The Rural Municipality Act 1989;* and
  - *The Northern Municipalities Act.*

KEY PROBLEMS

- The existence of three core municipal acts has raised some problems including:
  - Concerns about differences among the core statutes regarding matters such as: functions, powers, duties, and elections;
  - Existing and potential inconsistencies in the wording of similar types of provisions among and between the three core statutes; and
  - Real and perceived legislative impediments, barriers and obstacles both to inter-municipal cooperation and restructuring due to separate and different legislation governing different types of municipalities.

KEY VIEWS

- The Saskatchewan City Mayors have discussed separate municipal legislation (e.g., a City Act) to meet their needs for enhanced and more flexible powers. However, they have indicated in their submission to the Task Force, that separate legislation for cities may not be required if a single municipal act can meet the needs of cities.

- The Provincial Association of Resort Communities (PARCS) has called for the development of separate municipal legislation for resort communities many times in recent years.

- The jurisdiction for resort properties currently falls under several different acts including the three core municipal acts and various acts respecting Saskatchewan parks and regional parks. PARCS feels that resort communities are not being treated equitably under the various acts, and believes that separate legislation for resort communities is required to meet their needs and preferences.

- Participants in the Task Force's public consultations had differences of opinion on whether any of the three municipal acts should be consolidated:
  - Some felt that the current core statutes should be consolidated into a single statute that serves all municipalities equally well;
  - Some felt that the differences among the different types of municipalities – urban, rural and northern – were so great that each should have a separate and distinct municipal act; and
  - Some indicated that perhaps it was necessary to establish separate legislation for cities.

- Submissions to the Task Force that addressed the issue of 'Municipal Legislation' were generally in favour of directions aimed at consolidating, clarifying, and simplifying municipal legislation. The exceptions to this were submissions indicating that *The Rural Municipality Act* should not be consolidated with any other statute in order to maintain the distinction between rural and urban municipalities. Conversely, some submissions indicated that the separate municipal acts are: "divisive," "discourage cooperation," and "of questionable value."

KEY OPTIONS

- There are four key options regarding the consolidation of municipal legislation:
  - **Option 1:** Retain Three Core Municipal Statutes
  - **Option 2:** Create New Core Statutes
  - **Option 3:** Create Local and Regional Municipal Charters
  - **Option 4:** Consolidate Core Municipal Statutes

Option 1

Retain Three Core Municipal Statutes

- Under this option, the three existing core municipal statutes would be maintained and the current and potential problems and dissatisfaction with three separate municipal acts would continue.

- Saskatchewan is currently the only province in Canada that has separate Acts for rural, urban and northern municipalities.

- The rationale behind retaining three separate municipal acts is that there are substantial differences between rural, urban and northern municipalities in terms of their purpose, powers, functions, duties, and governance and management structures and processes.

Option 2

Create Additional Core Statutes or Charters

- Under this option additional core municipal statutes could be created for specific categories or types of municipalities such as resort communities or cities.

- Some provinces and territories have separate municipal statutes for specific forms of municipalities such as resort municipalities (British Columbia), cities, towns, villages hamlets and settlements (Northwest Territories), northern district municipalities (Quebec), and northern Metis communities (Alberta).

- A separate core statute is also being proposed in Newfoundland for its cities. The proposed 'Cities Act' would be markedly different from the province's existing *Municipalities Act* in terms of its recognition of the status of cities and the broad powers and autonomy that would be provided to cities.

Option 3

● Create Local and Regional 'Municipal Charters'

- Under this option municipal charters could be created for individual local or regional municipalities.

- Such charters could be consistent with, and subject to, most or all the provisions in core municipal legislation, except key matters of governance and management such as administration, organization, staffing, and bylaws that are unique to that municipality. Alternatively, such charters could also allow for the differentiation of status, purpose, functions, powers, and finances for individual municipalities based on bilateral agreement with the provincial government.

- Within the scope of a 'Municipal Charter', individual municipal councils could develop their own comprehensive 'Local Municipal Codes' consisting of various governance and management frameworks as well as bylaws and regulations that apply within a municipality's 'spheres of jurisdiction'.

- Such charters could provide a comprehensive document summarizing the governance and management of a municipality. Although municipal councils would enact them, such charters could be subjected to a provincial registration and approval process in much the same way that corporations are required to develop and file articles and bylaws of incorporation with the Province.

- Such charters would not provide municipalities with sovereignty. They would still be subject to provincial laws and regulations that are designed either to safeguard individual and group rights and the public interest, or to ensure that certain provincial standards are maintained.

- Such charters could be similar in nature to the "Home Rule Charters" of many American counties. Such charters are enacted by county councils and approved by state legislatures. They serve as a county's constitution and maximize the scope of local self-government in areas of municipal jurisdiction that do not contravene either state or federal law. Thirty-six American states have some type of home rule, with seventeen of those permitting the use of local home rule charters.

- Many provinces have separate legislation for individual municipalities, usually cities and metropolitan areas that provide different or additional powers for governance and management structures, land use control, and various other municipal functions. Examples include Winnipeg, Vancouver, Montreal, Summerside, Charlottetown, St. John's, Cornerbrook, Mount Pearl, and several individual metropolitan and regional municipalities in Ontario.

- The Northwest Territories has legislation allowing for the establishment of 'Charter Communities' and the changing of hamlets, villages, towns and cities to 'Charter Communities'. Under this legislation, a 'Community Charter' must describe the composition of the council, the terms of office for council members, and specify which of the bylaw powers listed under a section of the legislation are to apply to the charter community. In addition, the legislation states that a 'Community Charter' may vary provisions of the Local Authorities Elections Act (except for some designated sections), and define the relationship between the charter community's council and any band council or other Aboriginal organization.

Option 4

- **Consolidate Core Municipal Statutes**

- This option would see the consolidation of all or some of the existing core municipal acts.

- The trend in municipal renewal across most of Canada in the past decade has been towards the development of one consolidated Municipal Act governing all municipalities. The exceptions to the trend are the use of special charters for individual cities, metropolitan centres, and unique northern municipalities.

- Some provinces such as Alberta and Nova Scotia have consolidated separate city charters and acts for individual metropolitan and regional municipalities into one Municipal Act.

- Almost all provinces and territories in Canada, with the exception of the Northwest Territories, have either one consolidated municipal statute governing rural and urban types of municipalities, or as in Quebec and Ontario, or they have started the process of consolidating several existing core municipal statutes into one Municipal Act.

KEY DIRECTIONS

- **Consideration should be given to the consolidation of core municipal legislation into one common Municipal Act for all municipalities.**

- **Consideration should be given to adopting a separate 'Municipal Act' or 'Municipal Charter' either for any particular category or type of municipalities, or for any individual municipality, only when there is compelling evidence that it is absolutely essential for democratic governance and sound management.**

- **Consideration should be given to noting any distinctions and differences regarding, among other things, the purposes, powers, functions, duties, governance, and management frameworks of the various types and sub-types of municipalities in one of the following:**
  - **Body of the general Municipal Act;**
  - **Appendices of the general Municipal Act;**
  - **Charters pursuant to the general Municipal Act; or**
  - **Regulations pursuant to the general Municipal Act.**

KEY RATIONALE

- The consolidation of the core municipal acts into one core Municipal Act for municipalities would help accomplish the following:
  - Produce a core municipal statute that all municipalities can use to the best of their capacity and ability;
  - Make it easier to treat municipalities equally in terms of their fundamental purpose, status, powers, duties and functions where such equality is warranted or necessary;
  - Make more transparent the similarities and differences in the following:
    - Provisions regarding powers, duties, functions, governance and management of the different types or sizes of municipalities; and
    - Provisions regarding training, qualification, and certification of administrative personnel for various types of municipalities;
  - Assist in creating core municipal statutes that are broad 'general policy frameworks' outlining general principles regarding municipal governance rather than 'detailed regulatory frameworks' detailing how different types of municipalities perform their roles and responsibilities;
  - Remove some of the statutory impediments to greater urban-rural inter-municipal cooperation or restructuring that may exist as a result of differences and inconsistencies in the wording between the current legislation for urban and rural municipalities;
  - Facilitate the mobility of qualified administrative personnel between urban and rural municipalities; and
  - Facilitate the sharing of qualified administrative personnel between urban and rural municipalities.

- The adoption of a separate 'Municipal Act' or 'Municipal Charter' either for any particular category or type of municipalities, or any individual municipality only when there is compelling evidence that it is absolutely essential for democratic governance and sound management is valuable for the following purposes:
  - Municipalities covered by such acts or charters would not feel unduly constrained by the nature and scope of any general municipal act.
  - The general municipal act would be less complicated because it would not have to contain various provisions designed to accommodate the special statutory needs of some municipalities that have little, if any, relevance for the rest.
  - In the first instance, separate 'Municipal Acts' or 'Municipal Charters' could prove useful in meeting the special statutory needs of cities. This is particularly true of the needs of the larger cities whose functional and financial responsibilities, as well as their financial and organizational capacity, tend to be substantially broader than are those of many other municipalities.

KEY ISSUE

3. Consolidation of Related Municipal Legislation

KEY QUESTION

- *What directions should be taken regarding the consolidation of related municipal legislation in Saskatchewan?*

KEY FACTS

- There are more dozens of statutes related to municipal governance in Saskatchewan.

- Some of those statutes are devoted to various matters that fall largely within the scope of the municipal government's functions. This includes, for example:

  - CEMETERIES ACT
  - CONSERVATION & DEVELOPMENT ACT
  - CONTROVERTED MUNICIPAL ELECTIONS ACT
  - DIRECT SELLERS ACT
  - EMERGENCY 911 SYSTEM ACT
  - EMERGENCY PLANNING ACT
  - FIRE PREVENTION ACT
  - HIGHWAYS AND TRANSPORTATION ACT
  - HIGHWAY TRAFFIC ACT
  - INDUSTRIAL TOWNS ACT
  - LITTER CONTROL ACT
  - LOCAL AUTHORITY
  - FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT
  - LOCAL GOVERNMENT ELECTION ACT
  - LOCAL IMPROVEMENTS ACT
  - MUNICIPAL DEBENTURES ACT
  - MUNICIPAL EXPROPRIATION ACT
  - MUNICIPAL FINANCING CORPORATION ACT
  - MUNICIPAL INDUSTRIAL DEVELOPMENT CORPORATIONS ACT
  - NOXIOUS WEEDS ACT
  - PEST CONTROL ACT
  - PLANNING AND DEVELOPMENT ACT
  - POLICE ACT
  - STRAY ANIMALS ACT
  - TAX ENFORCEMENT ACT
  - UNIFORM BUILDING AND ACCESSIBILITY STANDARDS ACT

- Some related municipal statutes govern various local and provincial authorities that affect municipal governance such as:

  - ASSESSMENT MANAGEMENT AGENCY ACT
  - REGIONAL PARKS ACT
  - COMMUNITY BONDS ACT
  - CONSERVATION AND DEVELOPMENT ACT
  - EDUCATION ACT
  - HEALTH DISTRICTS ACT
  - PUBLIC LIBRARIES ACT
  - MUNICIPAL BOARD ACT
  - PROVINCIAL MEDIATION BOARD ACT

- Some related legislation either governs the relations between provincial and municipal governments or safeguards the provincial interests in municipal matters. Such legislation includes:

  - ENVIRONMENTAL MANAGEMENT PROTECTION ACT
  - HERITAGE PROPERTY ACT
  - MINERAL RESOURCES ACT
  - MUNICIPAL REVENUE SHARING ACT
  - MUNICIPAL TAX SHARING & (POTASH) ACT
  - NORTHERN AFFAIRS ACT
  - PUBLIC HEALTH ACT

KEY PROBLEMS

- The provincial government's officials, municipal associations, and associations of municipal administrators, clerks and city managers, all spend considerable energy keeping the various related municipal legislation up to date.

- Moreover, the amount of related legislation creates the potential for the following problems:
  - Confusion both inside and outside the municipal sector regarding what legislation actually guides the powers, duties, responsibilities and operation of municipalities;
  - Instances of overlapping, conflicting and inconsistent jurisdiction between core and related municipal legislation; and
  - Inconsistent wording and problems of harmonization both between the various related statutes and also between core and related municipal statutes.

KEY VIEWS

- Submissions regarding the Task Force's Interim Report that addressed the issue of 'Municipal Legislation' were generally in favour of directions aimed at consolidating, clarifying, and simplifying all municipal legislation including core and related legislation. A few such submissions specifically suggested that related municipal legislation regarding protective services such as fire prevention, emergency planning, building standards, and so on could be consolidated.

KEY OPTIONS

- There are three key options regarding the consolidation of related legislation:
  - **Option 1:** Retain Separate Related Statutes
  - **Option 2:** Consolidate Related Statutes With Core Statutes
  - **Option 3:** Consolidate Related Statutes With Each Other

Option 1

Retain Separate Related Statutes

- Under this option, the various related municipal statutes would remain.

- The current and potential problems with having numerous separate statutes relating to various aspects of municipal governance would likely continue. Everyone would have to continue to expend considerable energy to deal with instances of inconsistency and lack of harmonization within a relatively complex statutory framework.

Consolidate Related Statutes With Core Statutes

Option 2

- Under this option, some or all of the related municipal legislation would be consolidated with the core municipal legislation. This option is likely to be more fruitful if there were only one core municipal statute. Otherwise, the various related statutes would have to be consolidated (and thus duplicated) with each of the core statutes.

- Municipal legislation in British Columbia and the Yukon contains provisions regarding planning, municipal elections, and local improvements that in many other provinces, including Saskatchewan, are included in separate statutes.

- Several provinces have consolidated or are considering consolidating related municipal legislation with core municipal legislation.
    - Alberta's 1994 municipal legislative renewal initially proposed that all related legislation regarding 1) property taxation and assessment, 2) local improvements, and 3) municipal finances, should be consolidated into the *Municipal Government Act*. In addition, the province has since repealed and consolidated a number of other related statutes into its Municipal Act, including the Planning Act.
    - Nova Scotia's new *Municipal Government Act* which became effective in 1999 intended to consolidate most of the legislation concerning municipal government in that province, including the Planning Act.
    - New Brunswick's municipal review advisory committee of 1998 found that total consolidation of all related municipal legislation is impossible. It noted that in order for a statute to be consolidated, it "must relate to a subject matter of importance to municipalities and be of such a length that it is easily integrated." The committee also specifically recommended that legislation regarding policing, planning, and municipal elections not be consolidated.
    - Ontario's draft new *Municipal Act* is intended to replace much of that province's existing legislation "that governs municipal actions."
- Generally, however, in all of those provinces, the related legislation governing local elections, building codes and standards, and protective services (e.g., fire, police and emergency services) has remained as separate legislation.

Option 3

Consolidate Related Statutes With Each Other

- Under this option some or all of the related municipal legislation and the regulations that affect municipal governments would be consolidated into either a single related municipal statute(s) or 'Municipal Regulatory Code(s)', or a very limited number of such statutes or codes.
- Specific regulations for various municipal functions and activities would form chapters of the 'Municipal Regulatory Code(s)', rather than separate sets of regulations. The 'Municipal Regulatory Code(s) could exist in addition to other regulatory codes that may exist for purposes other than municipal governance.
- This option is not contingent upon the consolidation of the core municipal statutes in Saskatchewan, and could reduce the amount of separate related municipal statutes regardless of the directions taken with respect to the core municipal statutes.
- Some provinces have consolidated, and others are in the process of consolidating, some of their related municipal legislation either into one or a very limited number of related municipal statutes.
    - Quebec is currently consolidating almost 300 pieces of legislation (including core municipal legislation) into a six-volume *Municipal Code*.
    - Alberta's *Safety Codes Act* includes both fire protection and building standards provisions, and the Alberta Department of Highways and Utilities is proposing a consolidation of six separate highway or vehicle acts affecting municipalities into one *Traffic Safety Act*.

KEY DIRECTIONS

- **Consideration should be given to consolidating as much related municipal legislation as possible either into a single 'Municipal Act' or 'Municipal Regulatory Code', or a very limited number of such statutes or codes for all municipalities.**

KEY RATIONALE

- The consolidation of the related legislation governing municipalities into one related municipal statute would help accomplish the following:
  - Reduce the confusion regarding the various statutes that govern municipal governments;
  - Simplify the statutory framework for municipal governance.
  - Improve accessibility for elected and appointed municipal officials, residents and ratepayers, businesses and organizations, other levels of government and the general public;
  - Continue to accommodate any differences or variations among different types or sizes of municipalities that may be necessary through different provisions within a common Act, different regulations accompanying an Act, and so on;
  - Make more transparent the similarities and differences among different types or sizes of municipalities in Saskatchewan; and
  - Assist in creating core municipal statutes that are broad "policy" frameworks by placing the various "regulatory" frameworks in one related municipal statute.

KEY ISSUE

4. Formatting and Wording of Municipal Legislation

KEY QUESTION

- *What directions should be taken regarding the formatting and wording of municipal legislation?*

KEY FACTS

- A review of municipal legislation from other jurisdictions reveals a range of possibilities for improving the formatting and wording of municipal legislation in this province.
- Such a review also reveals that the formatting and wording in Saskatchewan's legislation is in need of some improvement.

KEY PROBLEMS

- The format of core and related statutes generally lack indexes and clear or thematic organization of the tables of contents and headings within the statutes.
- The wording of both core and related municipal legislation is relatively complex relying on technical legal wording or phrasing rather than 'plain language'.
- Generally, the current wording of municipal legislation has resulted in a lack of clarity, making the legislation difficult to read and understand both for municipal officials and the general public.

KEY VIEWS

- Oral and written submissions to the Task Force revealed a widespread agreement among not only among members of the public, but also elected and appointed municipal officials that the formatting of municipal legislation should be improved and the wording should be simplified.

KEY OPTIONS

- There are two major options in choosing directions regarding the formatting and wording of municipal legislation:
  - **Option 1:** Retain Current Formatting and Wording
  - **Option 2:** Revise Formatting and Wording

Option 1

Retain Current Format and Wording of Municipal Legislation

- Under this option the general nature of current formatting and wording of municipal legislation would be retained.

Option 2

Revise Format and Wording of Municipal Legislation

- Under this option both the formatting and wording of municipal legislation would be revised.
- In revising the formatting and wording consideration would be given to the following sets of potential improvements:
  - (a) Modern Formatting;
  - (b) Detailed Tables of Contents and Indexing;
  - (c) Thematic Organization; and
  - (d) Plain Language.

(a) Modern Formatting

- Modern formatting refers to using larger type, shorter sentences and paragraphs, more spacing, bolder headings and type in order to improve the readability.

(b) Comprehensive Tables of Contents and Indexing

- Some provinces have included relatively comprehensive tables of contents as well as comprehensive and alphabetized indexes in municipal legislation. These features make it easier for readers inside and outside the municipal sector both to understand what is included in the legislation and to find key provisions therein with relative ease.

(c) Thematic Organization

- Many provinces have incorporated clear headings, titles and sections regarding municipal status, purpose, powers, forms, functions, and finances into their municipal legislation.

- Some provinces have incorporated (British Columbia) or are considering incorporating (New Brunswick) more thematic organization to their municipal legislation.

- For example, the major parts or sections in British Columbia's municipal legislation seems to be organized according to the broad purposes of municipal governments that are defined in the legislation, namely:
  - *Providing good government* (Incorporation, Elections, Corporate Powers, Bylaws, Financial Powers);
  - *Providing services, facilities, and other things necessary and desirable for all or part of its municipality or community* (Fire, Police, Health, Utilities, Recreation, Community Services);
  - *Providing stewardship of the public assets of its community* (Business Licensing and Regulation, Building Regulation, Miscellaneous Regulation – animals, trees, nuisances, etc.); and
  - *Fostering current and future economic, social, and environmental well being* (Improvement Districts, Regional Districts, Regional Growth Strategies, Management of Development, Heritage Conservation).

(d) Plain Language

- The trend in municipal renewal across Canada has been towards greater use of plain language wherever possible. Technical or legal terms are used only where there is no plain language alternative that would ensure sufficient clarity for legal purposes.

- Indeed, several provinces and territories including Alberta, British Columbia, Manitoba, New Brunswick, and the Yukon have 'plain language' as one of their guiding principles of municipal renewal to ensure that municipal legislation is useable and understandable by the public.

KEY DIRECTIONS

- **Consideration should be given to rewriting, simplifying and clarifying municipal legislation by, among other things, paying special attention to the use of all of the following:**
  - **Modern formatting;**
  - **Thematic organization;**
  - **Comprehensive tables of contents and indexing; and**
  - **Plain language.**

KEY RATIONALE

- The formatting and wording of municipal legislation has a direct bearing on its ease of use by officials and particularly ratepayers and ratepayers.

- Municipal legislation must be formatted and worded in a manner that will encourage people to refer to it and facilitate their ability to do so when needed.

- Municipal legislation must be written as much with the needs of ratepayers and residents in mind, as with the needs of municipal officials, lawyers and the courts.

II. MUNICIPAL STATUS

Introduction

KEY FOCUS

- This section of the report examines four key issues related to municipal status:
  1. **Recognition of the Status of Municipal Governments**
  2. **Uniformity or Variance in Municipal Status**
  3. **Instruments Related to Status of Municipal Governments**
  4. **Principles Related to Status of Municipal Governments**

- The principal focus of this section is on the formal recognition of the status of municipal governments as an 'order' or 'level' of government.

KEY IMPORTANCE

- The municipal status issue is important for two major reasons:
  - First, because it continues to generate considerable interest among municipal officials across the country including those in this province; and
  - Second, because depending on how it is addressed, it could be of paramount importance in shaping the fundamental relationships between the municipal and provincial governments in the future.

KEY THEMES

- The major theme of this section is that consideration should be given to:
  - The recognition of municipal governments as a 'level of government';
  - The relative importance of renewal of status versus renewal of other matters;
  - Making recognition of municipal governments as a 'level of government' contingent on the nature and scope of their roles and responsibilities;
  - The relative merits of using provincial constitutional, statutory, and intergovernmental policy instruments;
  - Ensuring that any instrument used to recognize municipal status embodies fundamental principles that maximize the scope of 'local autonomous self-governance.

- That said, however, the Task Force would be remiss not to note at the outset what many observers of political systems know all too well.
  - Formal *de-jure* recognition as a 'level of government' may be less important than *de-facto* recognition and treatment as a level of government responsible for performing key governance functions.

- The reason for this is that, ultimately, the broad power or authority and autonomy to govern that municipal governments are seeking resides less in constitutional, statutory, or intergovernmental policy instruments than in their capacity to perform core governance functions. It is their capacity to perform those functions effectively, efficiently, equitably, and with a high degree of accountability that will provide municipal governments with the requisite political support of a critical mass of voters who must recognize them as a level of government. Such political support is crucial to ensure that other levels or orders of government accord municipal governments the authority and autonomy to perform their key roles and responsibilities with both the requisite financial resources and the requisite degree of authority and autonomy.

- Municipal governments are more likely to find their desired status in their 'capacity to act' than in any constitutional or legislative act. Accordingly, those truly interested in enhancing the status of municipal governments may need to focus less on 'constitution building' and more on 'capacity building.' The reason for this is that regardless of the statutory or constitutional framework, ultimately it is capacity that determines power and status, and not the other way around.

KEY ISSUE

1. Recognition of Status of Municipal Governments

KEY QUESTIONS

- *What status should municipal governments have within the overall system of governance in Saskatchewan?*
- *Should the status of municipal governments be recognized in municipal legislation?*

KEY FACTS

- Both the constitutional framework and the provincial statutory framework acknowledge the existence municipal governments.
- Section 92 (8) of the Canadian Constitution Act, 1867 recognizes 'Municipal Institutions' in provinces as being under the aegis of the provincial governments.
- Similarly, within the province's statutory framework municipal governments are acknowledged to be 'governments' with important roles and responsibilities within their respective boundaries.
- Indeed, they are the only local authorities that are referred to as 'governments'. Other local authorities (e.g., school boards and health boards) have not been given such statutory designation as governments, even though technically they are not fundamentally dissimilar from municipal governments. Indeed, school and health boards are performing particular functions that at various times in the past were performed either in whole or in part by municipal governments.

KEY PROBLEMS

- Notwithstanding those constitutional and statutory acknowledgements to the existence of municipal governments, however, neither the Canadian constitution nor the provincial statutes recognize municipal governments as being sovereign governments within their spheres of jurisdiction, as are the federal and provincial governments.
- In other words, they are not accorded the status as an 'order of government' within the scope of the constitutional framework comparable to that of the provincial or federal governments. In effect this means two things:
    - First, municipal governments are not parties to the creation or modification of the national and provincial constitutional frameworks.
    - Second, municipal governments do not have any sovereignty over matters such as their forms, functions, or finances. Instead, such matters are subject to the discretionary decisions of the provincial legislature, the provincial cabinet, or the provincial minister responsible for municipal governments. Any autonomy, rather than sovereignty, that municipal governments have for certain matters is accorded to them by the provincial legislature, cabinet, or the minister responsible for municipal affairs through various statutes, regulations, or policies.

KEY VIEWS

- Many of the oral and written submissions made to the Task Force during public consultations generally favoured the recognition of municipalities as an 'order of government.'
- Some submissions indicated that such recognition can and should occur without any renewal to other elements of the municipal system.
- Many of the submissions that addressed this issue were made by municipal officials. In Saskatchewan, as elsewhere, the clarion call for municipal governments to be granted the status as an 'order of government' tend to come primarily from municipal government officials and associations.
- Such clarion calls seem to be rooted in a belief that recognition as an 'order of government' would increase the authority and autonomy of municipal governments for matters such as their creation, organization, operation, functions, and finances.
- Unfortunately, such clarion call tends to come in a general form without a full explanation of precisely what recognition as an 'order of government' entails, or the nature of the means or instruments that should be used for the recognition of municipal status.
- Both the International Union of Local Authorities (IULA) and the Federation of Canadian Municipalities (FCM) have identified the recognition of local or municipal government status as a fundamental goal of their respective associations.
- The Federation of Canadian Municipalities (FCM) has also stated that without enhanced status for municipal governments in provincial legislation, enhanced status for them in the national constitution is virtually impossible.

KEY OPTIONS

- There are two basic options regarding the recognition of the status of municipal governments as an 'order of government':
  - **Option 1:** No Explicit Recognition of Municipal Status
  - **Option 2:** Explicit Recognition of Municipal Status

Option1

No Explicit Recognition of Municipal Status

- This option would see the status quo being maintained, with no explicit recognition of municipal status in Saskatchewan legislation or in any other instruments.
- This would place Saskatchewan somewhat behind several other provinces and territories on this issue that have used statutory and other instruments to explicitly recognize municipal status.

Option 2

Explicit Recognition of Municipal Status

- This option would see the explicit recognition of the status of municipal governments in Saskatchewan through legislation or other instruments.

- To date only four jurisdictions in Canada have developed or are in the process of developing municipal statutes or other instruments that recognize municipal governments as an independent, responsible and accountable 'order' or 'level' of government.

- These four jurisdictions are British Columbia, Nova Scotia, the Yukon, and Newfoundland.

  - British Columbia's Municipal Act states that:

    > "…local government is an independent, responsible and accountable order of government within its own jurisdiction."

  - British Columbia also has a 'Protocol of Recognition Amongst Government of British Columbia and Union of British Columbia Municipalities' which states that:

    > "The Province recognizes local government as an independent, responsible and accountable order of government."

  - Nova Scotia's Municipal Government Act enacted in April 1999 states that:

    > "…municipalities are a responsible order of government accountable to the people."

  - The Yukon's Municipal Act enacted in January 1999 states that:

    > "…the Government of the Yukon recognizes municipalities as a responsible and accountable level of government."

  - Newfoundland's proposed Cities Act states in the preamble that:

    > "…the province recognizes that every city is an order of government, is autonomous…and must be accessible, democratic and accountable."

- Many other countries have recognized the status of local government either in constitutions or statutes including the United States, Sweden, South Africa and members of the European Union.

- Both the International Union of Local Authorities (IULA) and the Federation of Canadian Municipalities (FCM) have adopted formal statements calling for the recognition of local or municipal government status, stating that:

  > "The principle of local self-government shall be recognised in the constitution or in the basic legislation concerning the government structures of the country."

KEY DIRECTIONS

- **Consideration should be given to the recognition of municipal government as an independent, accountable and responsible 'Level of Government.'**
- **Consideration should be given to the relative importance of this issue versus other issues that must be considered to enhance the capacity and powers of municipal governments in fulfilling their purposes and performing their functions.**

KEY RATIONALE

- The explicit and formal recognition of municipal governments as an independent, accountable and responsible 'level of government' through the means and instruments identified in the next sub-section would be acknowledging the obvious.
- First, they are a relatively independent level of government, even though the nature and scope of the independence from the provincial government of various forms or types of municipal governments and even specific governments within any particular form or type is highly variable.
- Second they are accountable and responsible to their electors, even though the level of accountability is variable among various types of municipal governments and even for the same municipal governments over time and across issues.
- Third, they are a 'level of government' with a certain degree of authority and autonomy. What they are not, and are not likely to become in the near future, are 'sovereign orders or levels of government'.
- The benefit of recognizing them more explicitly and formally as a 'level of government' is that the process leading to doing so would prove to be highly educational for everyone regarding the following matters:
  - The fundamental nature and scope of the relationship between the municipal and provincial governments;
  - The fundamental nature and scope of the authority and autonomy of municipal governments, which is at the core of the status issue;
  - The nature and scope of the fundamental purposes, functions, powers, and duties of municipal governments; and
  - The fundamental importance of the relationship between having the status as a 'level of government' and having the capacity to operate as a 'level of government.'
- Recognizing municipal governments as a 'level of government' within the provincial statutory framework would serve as an important reminder to everyone that municipal governments have still not achieved the status as an 'order of government' comparable to that of the federal and provincial governments within the national constitutional framework.

KEY ISSUE

2. Uniformity or Variance in Municipal Status

KEY QUESTIONS

- *Should the status of municipal governments as a 'level of government' be uniform or should it be variable?*
- *Should the status of municipal governments as a 'level of government' be unconditional or should it be contingent on, among other things, the nature and scope of their functional and financial roles and responsibilities?*

KEY FACTS

- In jurisdictions where the status of municipal governments is explicitly recognized in municipal legislation, it tends to be recognized on a uniform and non-conditional manner for all municipalities. There is no differentiation made on the basis of, among other things, the nature and scope of the functional or financial roles and responsibilities of municipal governments.
- Nevertheless, the equality of status does not mean that there are not substantial differences in legislation regarding the powers and duties or the authority and autonomy of various forms or types of municipalities depending on the nature and scope of their functional and financial roles and responsibilities.
- Indeed, in all provinces and territories, including Saskatchewan, regardless of whether municipal governments are formally and explicitly recognized as an order or level of government, there are differences in the nature and scope of the powers and duties or the authority and autonomy of various forms or types of municipalities. Invariably such differences are based on the nature and scope of their functional and financial roles and responsibilities.
- In Saskatchewan, for example, the nature and scope of the functional and financial roles and responsibilities for cities are different than for towns, villages, or rural municipalities. Moreover, such differences also exist among towns, villages, and rural municipalities.
- Neither the International Union of Local Authorities (IULA) nor the Federation of Canadian Municipalities (FCM) takes an explicit position on this particular issue. Neither of them indicates whether status as an 'order' or 'level' of government should be uniform and non-contingent, or variable and contingent on, among other things, the nature and scope of the functional and financial roles and responsibilities of municipal governments.

KEY PROBLEMS

- The issue of whether there should be uniformity or variance in municipal status is likely to emerge during the course of municipal legislative renewal. This is especially true if renewal is undertaken for any particular types or sub-types of municipalities, but not for others.
- The issue is also likely to emerge in relation to considerations regarding whether the uniformity or variance in municipal status should be linked to uniformity or variance in matters such as municipal functions (i.e., roles and responsibilities).

KEY VIEWS

- Those who made oral or written submissions during the Task Force's public consultations generally did not express a strong view on the uniformity or variance of the nature and scope of municipal government status. Most participants and submissions merely expressed their support for recognizing the status of all municipal governments as an 'order of government.'

KEY OPTIONS

- ➢ There are two basic options regarding the uniformity or variance of the status of municipal governments:

Option 1: **Uniform Status**
Option 2: **Variable Status**

Option 1

- **Uniform Status**

➢ This option would see any recognition of municipal governments as a 'level of government' being extended uniformly to all municipal governments in Saskatchewan, regardless of any distinctions in the following:

- ◆ Functional roles and responsibilities of municipalities.
- ◆ Financial roles and responsibilities of municipalities.

➢ The three jurisdictions in Canada that have recognized the status of municipal governments – British Columbia, Nova Scotia and the Yukon, have all extended this recognition uniformly to all municipal governments in their province or territory.

Option 2

- **Variable Status**

➢ This option would see the recognition of municipal governments as a 'level of government' varying among municipal governments in the province according to any or all of the following:

- ◆ Functional role and responsibilities of municipalities.
- ◆ Financial roles responsibilities of municipalities.

➢ To date only one jurisdiction in Canada is proposing recognition of municipal status as an order of government for a particular type of municipality. A Cities Act being proposed in Newfoundland states explicitly in its preamble that the province "… recognizes that every city is an order of government…." To date there is no such initiative to extend this recognition to other municipalities in the province that are governed under Newfoundland's *Municipalities Act*.

➢ Similarly, the City of Toronto is proposing to its provincial government that it be recognized as an "independent, responsible and accountable order of government with the power to act on local matters," in order to improve its ability to deal with the challenges it faces as a very large metropolitan centre and compete in a global economy.

KEY DIRECTIONS

- **Consideration should be given to whether the nature and scope of the status as a 'level of government' should be either uniform and not contingent on any criteria, or variable and contingent on the following criteria:**
  - **The nature and scope of the functional and financial roles and responsibilities of municipal governments; and**
  - **The nature and scope of the capacity of municipal governments to perform those roles and responsibilities.**

KEY RATIONALE

- The proposed directions echo the principles that underpin the current operation of the municipal system. After all, as noted above, within the current municipal system there are already differences in what is tantamount to the 'status' of municipal governments.

- This is evident in the fact that there are differences in the nature and scope of the authority and autonomy of certain forms or types of municipalities for certain matters. Such differences are based largely on differences in the nature and scope of the functional and financial roles and responsibilities of various forms or types of municipal governments which, in turn, are based on an implicit or explicit recognition of differences in their financial and organizational capacities to perform those roles and responsibilities.

- The proposed directions recognizes that not all municipal governments are likely to have the same capacity for exercising the same status as a 'level of government' or, more precisely, the corresponding degree of authority and autonomy that might be accorded to them.

- Some municipal governments have much more organizational capacity than others both in the nature and scope of the functional and financial roles and responsibilities that they can perform, and in the degree of authority and autonomy that they can exercise in relation to such roles and responsibilities.

- The underlying principles regarding the degree of uniformity or variance in the status of municipal governments that should be considered are as follows:
  - The greater the differences (or variance) among municipalities both in their functional and financial roles and responsibilities and in their capacities to perform the same, the greater are likely to be the differences (or variance) in their status and the corresponding degree of authority and autonomy.
  - Conversely, the greater the similarities (or uniformity) in such roles, responsibilities, and capacities the greater the similarities (or uniformity) in their status and the corresponding degree of authority and autonomy.

- The basic principle is that there should be a correspondence between the following:
  - The status of municipal governments;
  - The functional and financial roles and responsibilities of municipal governments; and
  - The capacities of municipal governments to perform their roles and responsibilities.

KEY ISSUE

3. Instruments for Status of Municipal Governments

KEY QUESTION

- *What instruments should be used for recognizing and safeguarding the status of municipal governments as a 'level of government'?*

KEY FACTS

- There are at least three major types of instruments that can be used for recognizing municipal governments as an order of government. This includes constitutional instruments, statutory instruments, or intergovernmental policy instruments.
- Such instruments are used in some form in various jurisdictions in the world. Within Canada, however, the instruments of choice to date have been statutory instruments and intergovernmental policy instruments.

KEY VIEWS

- Many of those who made oral and written submissions during the Task Force's public consultations generally agreed that the status of municipal governments as an 'order of government' should be enshrined and safeguarded in key documents that would have some legal and moral basis both in the inter-governmental relations and in the courts.
- The issue of which instruments or documents should be used to recognize and safeguard the status of municipalities, however, was not resolved.
- Suggestions regarding the type of instruments or documents that should be considered for entrenching the status of municipal governments included constitutional amendments, provincial legislation, and provincial-municipal protocol agreements.
- Some of those who made submissions noted the obstacles encountered in the past by those who sought to entrench municipal governments as an order of government in the national constitution. Given such obstacles, they expressed an interested in exploring the use of the other types of documents listed above for ensuring that municipalities are recognized as an order of government.
- Others who made submissions noted any type of document has limitations in safeguarding the status of municipal governments. More specifically, they noted that the recognition of municipal status in the legislation of other provinces did not prevent provincial governments from unilaterally undertaking certain actions that had major implications for municipal governments.
- Generally, those who made submissions were less interested in the type of documents that were used to recognize and safeguard the status of municipalities as they were in ensuring that it is done effectively.

KEY OPTIONS

- There are at least three major sets of instruments for recognizing and safeguarding municipal status:
  - **Option 1:** Constitutional Instruments
  - **Option 2:** Statutory Instruments
  - **Option 3:** Intergovernmental Policy Instruments

Option 1

- **Constitutional Instruments**
  - Constitutional instruments basically entail an amendment either to the national constitution or to the provincial constitutional framework (i.e., the core provisions in the constitution and the core acts related to the basic elements of the provincial system of governance).
  - An amendment to the national constitution has been proposed by the Canadian Federation of Municipalities for several decades, but has been met with insufficient governmental and public support needed for implementation.
  - The absence of recognition of municipal governments as an 'order of government', and particularly as a highly autonomous 'order of government' is not unique to Canada.
  - Generally the national constitutions of federal countries do not have provisions regarding the status of municipal governments. In federal countries, municipal governments are generally dealt with in the constitutions and statutes of sub-national governments. A case in point is the United States which provides some very interesting examples of sub-national or state constitutions and statutes which not only recognize municipal governments as 'levels' of government, but in some instances they recognize them as highly autonomous 'levels' of government. This is particularly true in states that subscribe to the principle of 'home rule'.
  - By contrast in unitary states, the national constitutions contain provisions recognizing municipal governments as a level of government, though generally not necessarily a highly autonomous one. The important point is that both in federal and unitary states they are recognized as a 'level' rather than an 'order' of government.

Option 2

- **Statutory Instruments**
  - Statutory instruments basically entail the enactment of provincial legislation recognizing and safeguarding the status of municipal governments as an 'order of government'.
  - Such legislation would contain fundamental principles that maximize the authority and autonomy of municipal governments regarding key matters such as their creation and dissolution, functions, and finances.
  - Such principles could be contained within general municipal statutes, or in a special statute devoted entirely to the status of municipal governments.
  - Moreover, such a statute could be enacted and amended by a vote of the legislature either with or without ratification through a provincial referendum.
  - In Nova Scotia and the Yukon the recognition of the status of municipal governments is contained solely within preambles to their municipal acts. In British Columbia such recognition is incorporated into the actual provisions (Section 1) of its Municipal Act as well as a separate "protocol agreement" or intergovernmental policy instrument.

Option 3

Intergovernmental Policy Instruments

Protocol Agreement

- Intergovernmental policy instruments basically entail the signing of provincial-municipal protocol agreements that articulate the fundamental principles related to the status of municipal governments.
- Examples of such intergovernmental policy instruments include:
  - British Columbia's 1996 'Protocol Agreement Amongst Government of British Columbia and Union of British Columbia Municipalities' which contains seven sets of principles. Those principles not only form the basis of the nature of the relationship between the provincial and municipal governments, but also contain the commitment to produce any 'protocol sub-agreements' that are needed from time to time.
  - These seven sets of principles are listed below:

> *(1) **Commitment to Action** - In the interests of all British Columbia the parties are committed to discharge their responsibilities within their respective areas of jurisdiction, while respecting the jurisdictions of others.*
>
> *(2) **Partnership** - The parties recognize each other's strengths and capabilities. To maximize efficiency and effectiveness, the parties are committed to cooperate in the spirit of partnership particularly in the harmonization of legislation, regulations, policies, programs and projects. The objective of both parties is to ensure a clear division of responsibilities which leaves the Province and local governments accountable for specific policies and gives them the authority and financial capacity to effectively perform their roles.*
>
> *(3) **Responsibilities and Resources** - Any party proposing a significant change in legislation, regulations, policies or programs that affects another party will ensure that a full evaluation is done of the costs and revenues associated with the proposed change. New responsibilities will not be assigned to another party until issues of funding, liability and resources have been discussed among the parties. With respect to matters where local governments are responsible, they should have adequate authority and independence to fulfil their responsibilities.*
>
> *(4) **Flexibility** - Legislation, regulations, policies or programs should respect the varying needs and circumstances of local governments in different parts of the province.*
>
> *(5) **Notification and Consultation** - In the spirit of fairness, openness and good faith any proposed significant change in legislation, regulations, standards, policies or programs will be preceded by appropriate consultation among the affected parties, including timely notification of the proposed change.*
>
> *(6) **Information Sharing** - The Province and local governments will cooperate in the development and distribution of information required for effective discharge of this agreement.*
>
> *(7) **Dispute Resolution** - In the spirit of partnership and efficient use of public resources, the parties agree to pursue alternate methods of dispute resolution wherever necessary and practical, ensuring the rapid resolution of disagreements*

Sub-Agreement

- British Columbia's 1997 "Protocol of Recognition Sub-Agreement on a New Legislative Foundation for Local Government Between the Government of British Columbia and the Union of British Columbia Municipalities" which contained nine key principles to establish a multi-year work program, with an agreed upon deadline, aimed at providing a new legislative foundation for local government.

- These nine key principles are listed below:

(1) ***Balance*** *- local government legislation should balance the interests of citizens, local government and the provincial government.*

(2) ***Clear and simple legislation*** *- local government legislation and related administrative procedures should be clearly written and understandable.*

(3) ***Broad powers*** *- local government legislation should replace specific, narrow local government authority with greater local government authority to do business in new, innovative and more effective ways.*

(4) ***Flexibility*** *- local government legislation should enable local governments to respond practically to specific local needs and circumstances, including obtaining additional or customized powers where/when needed.*

(5) ***Appropriate provincial government involvement*** *- provincial government involvement in local government activities should be justifiable and limited to instances where the provincial government has a clear purpose, responsibility or interest.*

(6) ***Accountability*** *- local government legislation should ensure local governments are answerable to citizens, and include a variety of ways to determine citizen interest and enable citizen input on issues of concern to them. The legislation should also ensure that the local government decision-making process is fair and open.*

(7) ***Matching resources to responsibilities*** *- local government legislation should enable local governments to obtain the financial resources they need to meet the responsibilities and provide the level of service expected of them.*

(8) ***Consultation*** *- local government legislation should require provincial consultation with local government on matters which directly impact local government decisions and activities.*

(9) ***Resolution of inter-local governmental issues*** *- local government legislation should establish the means for consultation, collaboration and closure on issues, to guide inter-local government relationships.*

KEY DIRECTIONS

- **Consideration should be given to exploring ways to enhance the status of municipalities in the province as a 'level of government' within all of the following frameworks:**
  - **Provincial Constitutional Framework;**
  - **Provincial Statutory Framework; and**
  - **Intergovernmental Agreements Framework.**

- **Consideration should be given to the merits of including provisions regarding the status of municipal governments as a 'level of government' not only in general municipal statute(s), but also in a separate special statute that would have a 'quasi-constitutional' standing within the statutory framework.**

- **Consideration should be given to the provincial and municipal governments using protocol agreements and protocol sub-agreements that deal with specific matters so as to provide greater clarity, transparency, and certainty in municipal-provincial relations and coordination.**

- **Consideration should be given to the Municipal-Provincial Roundtable producing a 'General Protocol Agreement on Municipal-Provincial Relations and Coordination' that contains provisions for various categories of 'Protocol Sub-Agreements' that could be established pursuant to that particular agreement.**

KEY RATIONALE

- The directions outlined above should provide municipal and provincial governments and voters with codified sets of fundamental principles regarding the status of municipal governments and the nature and scope of their relationships with the provincial government.

- Such codified sets of principles could prove to be useful instruments for four major purposes:
  - First, they could prove useful for the provincial and municipal governments in defining their respective roles and responsibilities and their relationship.
  - Second, they could prove useful for the provincial and municipal governments holding each other accountable and responsible for their respective roles and responsibilities and the nature of their relationships.
  - Third, they could prove useful for the voters in holding both the provincial and municipal governments accountable and responsible for their respective roles and responsibilities and the nature of their relationships.
  - Fourth, they could prove useful for the courts in resolving issues of interpretation regarding, among other things: the fundamental status of municipal governments; their fundamental purposes, functions, and powers; their fundamental relationship to the provincial government; and their fundamental relationship to the ratepayers and residents.

KEY ISSUE

4. Principles Related to Status of Municipal Governments

KEY QUESTION

- *What principles regarding the status of municipal governments as a 'level of government' should be embodied in any constitutional, statutory or intergovernmental agreements frameworks?*

KEY FACTS

- The value or significance of municipal governments being recognized as a 'level of government' is contingent on the core principles regarding the rights, powers and duties that accrue to them from possessing such a status.

- In particular, it is contingent on the core principles regarding the rights, powers and duties of municipal governments on several key matters. Some of the most notable of these, but by no means the only ones, are the principles regarding:
  1. Fundamental Constitutional and Legal Matters
     - The constitutional status of municipal governments; and
     - The legal corporate status of municipal governments.
  2. Structural Matters
     - The creation, conversion, annexation, amalgamation, and dissolution of municipalities.
  3. Functional Matters
     - The nature and scope of their core functions; and
     - The means by which they perform their core functions.
  3. Intra-governmental Matters
     - The organizational frameworks of municipalities; and
     - The management frameworks of municipalities.
  4. The Inter-governmental Matters
     - Notice and consultation;
     - Joint decision-making; and
     - Provincial compliance.

- Collectively the rights, powers and duties on each of the aforementioned matters would constitute what might be termed either a 'Municipal Constitution' or a 'Charter of Rights, Powers and Duties for Municipal Governments.'

- As a 'constitution-like document' they would contain provisions that address fundamental issues regarding at least three major sets of municipal relationships:
  - Relationships between municipal governments and other governments;
  - Relationships between municipal governments themselves; and
  - Relationships between the municipal governments and their voters.

KEY PROBLEMS

- Saskatchewan's legislation does not contain any explicit provisions or principles regarding the status of municipal governments. Implicitly, however, the municipal statutes confer an indeterminate degree of status (along with various rights, powers and duties), but one that is extensively circumscribed and subordinate to that of the provincial government.

KEY VIEWS

- Those who made submissions during the Task Force's various consultation initiatives generally did not explicitly articulate the principles that should be contained in any instruments that recognize municipal status. Implicitly, however, many indicated that they favoured principles that maximized the authority and autonomy of municipal governments vis-à-vis the provincial government and rendered them "governance agents of local communities" rather than "administrative agents of the province'.

KEY OPTIONS

- There are at least three major options for developing principles that recognize and safeguard the status of Saskatchewan's municipalities:
  - **Option 1:** Adopting Principles of Other Provinces
  - **Option 2:** Adopting Principles of the International Union of Local Authorities (IULA) and the Federation of Canadian Municipalities (FCM)
  - **Option 3:** Adopting Principles of Other Sources

Option 1

Adopting Principles of Other Provinces

[1] Overview of Principles in Statutes of Other Provinces

- For an appreciation of the types of principles contained in the statutory frameworks of other provinces, it is useful to consider the Donald Lidstone's presentation to the FCM in 1998 in which he identified principles related to five facets of the provincial-municipal relationship that are important for the status of municipal governments that were contained either in the existing or proposed legislation of five provinces (i.e., Newfoundland, Nova Scotia, Ontario, Manitoba, and Alberta).

(a) Consultation on Matters Affecting Local Government

- The municipal legislation in most provinces is relatively silent on the issue of provincial consultation on matters affecting local government.
- The notable exception is Newfoundland's proposed Cities Act which creates a Municipal Governance Council consisting of representatives of the provincial and the local governments who are mandated to:
  - Advise the province on proposed amendments to this Act;
  - Recommend timetables for advice to the province on proposed amendments; and
  - Recommend, and help the province implement, measures and procedures that consult with the cities affected before amending regulations, policies, programs, or orders and other provincial legislation.

(b) Amending Legislation

- Legislation in four of the five provinces does not contain any provisions regarding the role of municipalities in amending municipal legislation.
- Newfoundland's proposed Cities Act merely states that the province will consult the joint municipal-provincial Municipal Governance Council on amendments and permits the council to:
  - Advise the province on proposed amendments to the Act; and
  - Recommend a timetable for advice to the province on proposed amendments.
- Alberta's Municipal Act contains provisions for permissive consultations on the part of the province with municipalities on amending legislation as well as for both the amalgamation and the dissolution of municipalities.

(c) Joint Decision-Making

- Legislation in four of the five provinces does not contain provisions regarding any mechanisms for joint decision-making.
- Moreover, Newfoundland's proposed Cities Act, merely states that the joint municipal-provincial Municipal Governance Council must "encourage consultation…and the sharing of decision-making with cities where the province and the cities wish to act or exercise power in relation to any matter that is within the jurisdiction of the province and the cities." It does not compel the province to engage in joint decision-making.

(d) Provincial Compliance with Municipal Regulations

- According to Lidstone, there do not appear to be any mechanisms compelling provincial compliance with municipal regulations under the legislation of four of the five provinces.
- In Newfoundland the Municipal Governance Council established under the proposed act must recommend and help the province implement measures and procedures which "the province, its Crown corporations and agencies will comply with the city authority in the areas of city jurisdiction".
- Lidstone adds that in provinces it is generally common law principles and provincial interpretation acts that determine when and where the province and provincial agents are not bound by municipal regulations.

(e) Delegation of Powers

- Legislation in several of the five provinces contains some important principles regarding the nature and scope of the powers delegated to municipalities.
- Three of the five provinces invoke the principle of 'natural person powers' within the municipal governments' 'spheres of jurisdiction.'
- In all cases, however, there are limitations to the scope of those powers.

[2] Overview of Provisions & Principles in Statutes of Other Provinces

(a) Provisions and Principles in British Columbia's Municipal Act:

British Columbia's Municipal Act

- British Columbia recognizes local government as an accountable order of government in the 'Purposes and Principles' section of the British Columbia Municipal Act, 1998 as follows:

  > *"...local government is an independent, responsible and accountable order of government within its jurisdiction [that should be provided with both]...the powers, duties and functions to fulfill their purposes, ... and ... the flexibility to respond to changing community circumstances."*

- British Columbia's Municipal Act 1998 also identifies a set of fundamental principles that should govern the relationship between local governments and the Provincial government as follows:

  > *"The relations between local government and the Provincial government in relation to this Act is based on the following principles:*
  > *(a) Cooperative relations between the Provincial government and local governments are to be fostered in order to efficiently and effectively meet the needs of the citizens of British Columbia;*
  > *(b) Local governments need the powers that allow them to draw on the resources required to fulfill their responsibilities;*
  > *(c) Notice and consultation is needed for Provincial government actions that directly affect local government interests;*
  > *(d) The Provincial government recognizes that different local governments and their communities have different needs and circumstances and so may required different approaches;*
  > *(e) The independence of local government is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally."*

(b) Provisions & Principles in Manitoba's Municipal Act

Manitoba's Municipal Act

- In Manitoba's Municipal Act key principles that might be useful to consider in relation to the status of municipal governments 'as an order of government' are embodied in provisions that recognize the powers that municipalities, as corporations, can exercise for municipal purposes.
- Part 7 of Manitoba's Municipal Act identifies the 'spheres of jurisdiction' in which a council may pass by-laws for municipal purposes. These include both broad functional areas and specific regulatory activities. These areas are listed in a subsequent section of this report on 'Municipal Powers'.

(c) Provisions & Principles in Alberta's Municipal Government Act

Alberta's Municipal Government Act

- Similarly, Alberta's *Municipal Government Act* also contains provisions that recognize the powers that municipalities, as corporations, can exercise for municipal purposes.
- Alberta's Act gives municipalities broad 'spheres of jurisdiction' broad 'natural person powers' and 'broad by-law making powers'.
- Nevertheless, the Act also contains an important proviso that each sphere of jurisdiction and each set of powers may be expressly limited in the Act or any other enactment.

(d) Provisions & Principles in Newfoundland's Proposed Cities Act

Newfoundland's Proposed Cities Act

- Newfoundland's proposed Cities Act states that cities have broad 'corporate powers' and 'natural person powers' except to the extent that they are limited under that particular Act.
- The Act identifies 15 broadly defined spheres of power in which a city council may act. The broad nature of those spheres of power, however, are curtailed by sections stating that a regulation, resolution or order made by council is of no force and effect and is deemed to be repealed if it is:
  - Inconsistent with an enactment of the province or Canada;
  - Not within the legislative competence of the province; or.
  - Expressly excluded from the city's competence by an Act.

(e) Provisions & Principles in Ontario's Proposed Municipal Act

Ontario's Proposed Municipal Act

- Ontario's proposed Municipal Act identifies 13 general spheres of jurisdiction in which municipalities may act and exercise their governmental and natural persons powers. The proposed Act also contains an explicit statement that those powers *"...shall be interpreted broadly so as to confer broad authority on municipalities,*

  (a) to enable them to govern their affairs as they consider appropriate; and
  (b) to enhance their ability to respond to municipal issues."
- Nevertheless, in Ontario as in other provinces those very broad 'spheres of jurisdiction' are curtailed by the principle of paramountcy. This means that municipal bylaws are invalid if they conflict with any provincial or federal act or regulation.

Summary

- The foregoing overview of the broad 'spheres of jurisdiction' and broad 'natural person powers' of municipal governments in various provinces in Canada reveals that there are limitations to the status and powers of municipal governments.

- Notwithstanding the broad scope of their jurisdiction and powers, and the possibility that they may enjoy a relatively high degree of authority and autonomy in certain matters, the constitution along with the legislation and regulations of the provincial and federal governments place limits on municipal governments. Within the Canadian political system no municipal governments has sovereignty.

Option 2

Principles of International Union of Local Authorities (IULA) and Federation of Canadian Municipalities (FCM)

➢ The International Union of Local Authorities (IULA) 1993 *'Worldwide Declaration of Local Self-Government'* contains 11 articles and a number of related principles of local self-government. These articles and principles have also been adopted by the Federation of Canadian Municipalities (FCM) at its Annual Conference in June 1998.

PRINCIPLES OF LOCAL SELF-GOVERNMENT

Article 1: Constitutional foundation for local self-government

1. The principle of local self-government shall be recognised in the constitution or in the basic legislation concerning the government structures of the country.

Article 2: Concept of local self-government

1. Local self-government denotes the right and the duty of local authorities to regulate and manage public affairs under their own responsibility and in the interests of the local population.
2. This right shall be exercised by individuals and representative bodies freely elected on a periodic basis by equal, universal suffrage, and their chief executives shall be so elected or shall be appointed with the participation of the elected body.

Article 3: The scope of local self-government

1. Public responsibilities shall be exercised by those basic units of local government, which are closest to the citizen. They may also be exercised by territorial units at an intermediate or regional level, in accordance with the practice in each country.
2. Local authorities shall have a general right to act on their own initiative with regard to any matter which is not exclusively assigned to any other authority nor specifically excluded from the competence of local government.
3. The basic responsibilities of local authorities as well as the procedures for changing these responsibilities shall be prescribed by the constitution or by statute.
4. Powers given to local authorities shall normally be full and exclusive. In so far as a central or regional authority is empowered by the constitution or by statute to intervene in matters for which responsibility is shared with local authorities, the latter shall retain the right to take initiatives and make decisions.
5. Where powers are delegated to them by a central or regional authority, local authorities shall be given discretion to adapt the implementation of legislation to local conditions.
6. Local authorities shall have a reasonable and effective share in decision-making by other levels of government which has local implications.

Article 4: Protection of existing local authorities

1. If the constitution or national law permits the suspension or dissolution of local councils or the suspension or dismissal of local executives, this shall be done in accordance with due process of law. Their functioning shall be restored within as short a period of time as possible which shall be prescribed by law.
2. Changes in local authority boundaries shall only be made by law and after consultation of the local community or communities concerned, including by means of a referendum where this is permitted by statute.

Article 5: Adequate organizational structures for local government

1. Local authorities shall determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
2. Conditions of employment and training opportunities for local government employees shall be such as to permit attractive career prospects. Central and/or other higher levels of government shall encourage and facilitate the introduction of career and merit systems in local government.

Article 6: Conditions of office of local elected representatives

1. The conditions of office of local elected representatives must guarantee them the free exercise of their functions.
2. These conditions must provide in particular for appropriate compensation and social welfare protection.
3. Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute only.

Article 7: Supervision of local authorities' activities

1. Procedures of the supervision of local authorities shall be instituted only by the constitution or by statute.
2. The supervision of local authorities shall normally aim only at ensuring compliance with the law.

Article 8: The resources of local authorities

1. Local authorities shall be entitled to adequate financial resources of their own, distinct from those of other levels of government and to dispose freely of such revenue within the framework of their powers.
2. The allocation of resources to local authorities shall be in reasonable proportion to the tasks assumed by them. These resources shall be of a regular and recurring nature so as to permit uninterrupted public services and adequate financial planning. Any transfer of new responsibilities shall be accompanied by an allocation of the financial resources required for their fulfillment.
3. A reasonable proportion of financial resources of local authorities shall derive from local taxes, fees and charges of which they shall have the power to determine the rate.
4. Taxes which local authorities shall be entitled to levy, or of which they receive a guaranteed share, shall be of a sufficiently general, buoyant and flexible nature to enable them to keep pace with their responsibilities.

Article 8:

1. The autonomy of financially weaker local authorities requires a system of financial equalization.
2. The right of local authorities to participate, in an appropriate manner, in framing the rules governing the general apportionment of redistributed resources shall be expressly recognized.
3. The provision of block grants, which are not earmarked for the financing of specific projects or services, shall be promoted. The provision of grants shall not justify any undue intervention in the policies pursued by local authorities within their own jurisdiction.

Article 9: Associations of local authorities

1. Local authorities shall be entitled, in exercising their powers, to form associations for the defence and promotion of their common interests as well as in order to provide certain services to their members.
2. Other levels of government shall consult associations of local authorities when passing legislation affecting local government.

Article 10: International links

1. Local authorities' right of association shall include that of belonging to an international association of local authorities.
2. Local authorities shall also be entitled to maintain links with their counterparts in other countries for the purpose of interchange and cooperation and promoting international understanding.

Article 11: Legal protection of local authorities and their autonomy

1. Local authorities shall have the right of recourse to a judicial remedy in order to safeguard their autonomy and to ensure compliance with the laws which determine their functions and protect their interests.

Option 3

Principles from Other Sources

[1] Lidstone's Principles

➢ Donald Lidstone, one of Canada's leading experts on the status of local governments, has articulated the following set of principles for local self-government related to four key facets of the provincial-municipal relationship:

(a) Restructuring:

- The dissolution of local elected bodies or changes in local authority boundaries must only be made in accordance with due process of law, with full consultation with the local authority, and by way of a referendum where permitted by law.

(b) Powers:

- Powers given to local bodies must be complete and exclusive;
- Local bodies may act or exercise power in relation to any matter that is not expressly excluded from their competence or exclusively delegated to another entity; and
- Local governments must have full discretion to exercise their powers to meet local conditions.

(c) Resources:

- Local bodies must have adequate financial and legal resources to provide good government and services locally.

(d) Decision-Making:

- Where there are local implications, local governments must participate in decision-making by other levels of government.

[2] British Columbia's Liberal Party's' Community Charter' Principles

➢ Another interesting set of principles related to the status of municipal governments and local self-governance are found in the preamble of the 'Community Charter' (Bill M222-1995) introduced by British Columbia's Liberal Leader, Gordon Campbell, as a private member's bill in 1995, including the following:

(a) Powers:

- The powers of communities must be adequate to meet local needs.
- Communities have full discretion in the exercise of their powers to meet local conditions.
- Communities may act or exercise power in relation to any matter that is not expressly excluded from their competence by an enactment, not within the legislative competence of the Province, and not inconsistent with a lawful act of the Province or Canada.
- The ultimate determination of the local public interest lies exclusively with locally elected officials, including the right to determine the level of local expenditures and taxation.

(b) **Prior Notice on Statutory Matters**:

- Communities have a legitimate expectation that legislation empowering communities will not be repealed or amended by the Legislative Assembly of the Province except by extraordinary legal processes and procedures and the Province will give written notice to and consult with communities before amending provincial legislation, regulations, policies, programs or orders that affect communities.

(c) **Provision of Public Services:**

- Local public services must be provided by democratically elected, responsible, accountable and accessible local government.
- Communities may determine their administrative structures in order to adapt them to local needs and ensure effective management and delivery of services.

(d) **Provincial Compliance:**

- The province, its crown corporations and agencies will comply with local government authority in the areas of community jurisdiction.

(e) **Notification and Consultation**

- The province will notify and consult with communities when assessing inter-provincial, national or international issues or agreements that will impact the jurisdiction of communities.
- The province will consult with communities and share decision-making where the Province and the communities wish to act or exercise power in relation to any matter that is within the jurisdiction of the Province and the communities.

(f) **Financial Resources**

- Communities must have financial and other resources that are sufficient to support local needs and that are distinct from the financial and other resources of other orders of government.

(g) **Financial Powers**:

- The right of communities to exercise policy discretion within their jurisdiction includes the right to apply revenue transfers from the Province for any purpose despite conditions the Province may attach to the revenue transfers.
- No community is obligated to accept a transfer of new powers or duties from the Province unless the community consents to the transfer on the basis of an allocation of new financial or other resources required by the community to exercise the new power or fulfil the new duty.

KEY DIRECTIONS

- Consideration should be given to the relative merits of including various fundamental principles embodied in the existing or proposed statutory frameworks and intergovernmental agreements frameworks of other jurisdictions in any instruments chosen for recognizing and safeguarding the status of municipal governments as a 'level of government' in this province.

- Consideration should be given to ensuring that any instruments used for recognizing and safeguarding the status of municipal governments as a 'level of government' contain useful principles regarding various matters including, but not limited to, the following:

  1. Fundamental Constitutional and Legal Matters
     - The constitutional status of municipal governments.
     - The legal corporate status of municipal governments.
  2. Structural Matters
     - The creation, conversion, annexation, amalgamation, and dissolution of municipalities.
  3. Functional Matters
     - The nature and scope of their core functions.
     - The means by which they perform their core functions.
  4. Intra-governmental Matters
     - The organizational frameworks of municipalities.
     - The management frameworks of municipalities.
  5. The Inter-governmental Matters
     - Notice and consultation.
     - Joint decision-making.
     - Provincial compliance.

- Consideration should be given to ensuring that provisions regarding the status of municipal government as a 'level of government' articulate not only principles regarding their fundamental rights and powers, but also principles regarding either any duties or limitations that correspond to those rights and powers.

- Consideration should be given to ensuring that provisions regarding the status of municipal government as a 'level of government' embody the following fundamental principle:
  - Municipal governments have the right to act in a relatively autonomous fashion and to exercise 'natural person powers' within their 'spheres of jurisdiction' in accordance with and subject to any limitations contained either in the constitution or any provincial legislation.

- Consideration should be given to ensuring that any provisions regarding the status of municipal governments as a 'level of government' embody the fundamental principle that there should be a correspondence between the following matters:
  - The status of municipal governments;
  - The functional and financial roles and responsibilities of municipal governments; and
  - The capacities of municipal governments to perform their functional and financial roles and responsibilities.

KEY RATIONALE

- The foregoing directions are based on at least three important considerations.
  - First, there is no shortage of provisions and principles regarding to the status of municipal governments as a level of government in statutes and documents produced to date by various governments and associations. The challenge for those interested in this issue in Saskatchewan is to determine which of those provisions and principles should be embodied within various instruments chosen for municipal governance.
  - Second, for the status of municipal governments as a 'level of government' to have any significance within the general governance framework in this province it must be grounded in fundamental principles that are both appropriate, practical and legitimate. In particular, it is important that it is grounded in useful principles regarding the nature and scope of their authority and autonomy in, among other things, various structural, functional, financial, operational matters and the types of policies, programs and projects that are needed and preferred in their communities.
  - Third, as noted at the start of this section of the report, there must be a close correspondence between the status of municipal governments as a 'level of government' and the capacity of municipal governments to fulfill their fundamental purpose, and perform their fundamental roles and responsibilities as governments. If municipal governments lack such capacity, their status as a 'level of government' will have little meaning and importance either for them or for ratepayers and residents that comprise their communities.
- Finally, it should be noted that the status of municipal governments as a 'level of government' should either be the first major issue to consider in municipal renewal or the last.
  - If it is the first issue, then decisions must be made about the precise nature and scope of the status that municipal governments will have and design everything else accordingly.
  - Conversely, if it is the last issue to be considered, then decisions regarding the nature and scope of status must be made after decisions have been made regarding other important matters identified in this and subsequent sections of this report.

III. MUNICIPAL PURPOSE

Introduction

KEY FOCUS

- This section of the report focuses on two key issues regarding the purpose of municipal governments:
  1. **Nature and Scope of Municipal Purpose**
  2. **Uniformity or Variance in Municipal Purpose**

KEY IMPORTANCE

- The purpose of municipal governments is very important both in itself and for other key issues that must be considered within the scope of municipal renewal, such as the functions, powers, and finances of municipal governments.

- It is generally recognized that a detailed and explicit statement of the purpose of municipal governments is valuable for at least two purposes:
  - It can perform an educational function in reminding everyone of what are the fundamental purposes of some, or all, municipal governments.
  - It can be used as a basis or organizing framework for the remainder of the statutes. Some provinces, such as British Columbia and Nova Scotia, seem to use their statements of municipal purpose as a framework to organize and structure the remainder of their municipal acts and categorize municipal functions, powers and duties.

- Notwithstanding the importance of the issue of the purpose of any or all categories or types of municipal governments, resolving the issue in a substantial, significant, and useful manner is not likely to be easy.
  - The first challenge will be to determine what the fundamental purposes of any or all municipal governments should be, and the extent to which those purposes will be either uniform or variable.
  - The second challenge will be to identify general and specific purposes and to categorize them in a logical manner.
  - The third challenge will be to articulate purposes in a way that they result in useful provisions rather than meaningless platitudes.

KEY THEMES

- This section of the report profiles at least four central themes:
  - First that consideration should be given to the inclusion of a statement of the purposes of all forms and types of municipal governments in the core municipal statutes.

  - Second, that in producing such a 'Statement of Municipal Purpose' attention should be devoted to comparable statements contained in the municipal legislation of other provinces and territories.

  - Third, that a 'Statement of Municipal Purpose' should be produced that it is likely to have important implications for, among other things, the precise functions, powers, and finances of municipal governments.

  - Fourth, that for a 'Statement of Municipal Purpose' to be useful it must be sufficiently precise to profile any fundamental differences both in the purpose of municipal governments from that of other governments, and in the purposes of various categories or types of municipalities.

KEY ISSUE

1. Nature and Scope of Municipal Purpose

KEY QUESTIONS

- *What directions should be taken regarding the nature and scope of the purposes of municipal governments?*
- *What directions should be taken regarding the nature and location of a "Municipal Purpose Statement' within municipal legislation?*

KEY FACTS

- There is no explicit and detailed statement regarding the purposes of municipal governments in Saskatchewan's core municipal legislation.
- Instead, the purposes of municipal governments is referred to indirectly and implicitly in a brief provision in each of the three municipal acts in relation to the general bylaw making powers of municipalities. Section 83 of *The Urban Municipal Act,* and Section 72 of *The Northern Municipalities* state that:
  "Subject to the provisions of this Act and to the provisions of any other Act, a council may pass any bylaws that it considers expedient:
    - *(a) for the peace, order & good government of the...municipality;*
    - *(b) for promoting the health, safety, morality and welfare of inhabitants of the municipality; and*
    - *(c) for governing the proceedings of council, the conduct of members and the calling of meetings."*
- Similarly, sub-section 168.1 of *The Rural Municipality Act states that:*
  "Subject to the provisions of this Act and to the provisions of any other Act, a council may pass any bylaws that it considers expedient:
    - *(a) for the peace, order & good government of the...municipality; and*
    - *(b) for promoting the health, safety, morality and welfare of inhabitants of the municipality.*
- The difference between the provisions in *The Rural Municipality Act* and the other two municipal acts is that the former does not explicitly mention *"...governing the proceedings of council, the conduct of members and the calling of meetings"* as an area for which rural municipalities have bylaw making powers. That is a not a substantial difference in the fundamental purpose of municipalities.
- Unlike Saskatchewan, several provinces and territories including Alberta, British Columbia, Manitoba, Nova Scotia and the Yukon have incorporated formal 'Municipal Purpose Statements' into the preambles or first sections of their municipal legislation. Moreover, their list of purposes tends to be logical and relatively comprehensive in the scope of important matters that they cover. The key purposes in those 'Municipal Purpose Statements' tend to be:
    - *Providing good government;*
    - *Providing services, facilities, and other things necessary and desirable for all or part of the municipality or community;*
    - *Developing & maintaining safe, viable communities.*
    - *Providing stewardship of public assets* (BC only); and
    - *Fostering economic, social and environmental well being* (BC only).
- Moreover, generally the other provinces or territories tend not to list different purposes for different categories or types of municipalities.

KEY PROBLEMS

- The current provisions regarding the general bylaw making powers of municipalities do not suffice as a substitute for an explicit and detailed 'Statement of Municipal Purpose'. They are problematic in at least two ways:
  - First, they are somewhat buried in the body of the three core Acts; and
  - Second, they are much too general and vague to be of much use in distinguishing the fundamental purposes of either municipal governments as compared to that of the provincial or national governments, or one category or type of municipalities versus another category or type of municipalities.

- Given that the current references to the purposes of municipal governments are largely implicit, very general, and vague, they do not contribute to a clear understanding of what the fundamental purposes of municipal governments is within the municipal system.

- The lack of clarity on purpose has implications for the degree of clarity that is possible regarding the status, powers (i.e., authority and autonomy), functions (i.e., roles and responsibilities), and finances of municipal governments.

- Invariably, the lack of clarity on purpose, and by extension on each of those other matters, can produce confusion and at times even conflict between the following:
  - Various categories and types of municipal governments;
  - Municipal governments and other local governing entities (e.g., health boards and school boards); and
  - Municipal and provincial governments.

KEY VIEWS

- Many participants in the Task Force's 'Community Forums' began their "visioning" of the ideal municipal system with the following thoughts:

  - The fundamental purpose of municipal governments should be stated explicitly in core municipal statutes, and possibly even in related municipal statutes.

  - The purpose of municipal governments should be clearly defined.

  - A statement of purpose should be useful in clarifying the reasons for establishing municipalities, their status, their roles and responsibilities, and their relations with the provincial government and other governing authorities.

  - The fundamental purpose of municipal governments is to provide the type of governance, management, planning, development, and delivery of public services within their boundaries that meets the needs and preferences of their respective ratepayers and residents.

  - The fundamental purpose of municipal governments should be to:
    - Provide good governance and management;
    - Foster economic, community, social, cultural and environmental development; and
    - Ensure good quality of life for members of their communities.

- ➢ The thoughts outlined above were echoed by those who addressed the issue of the fundamental purpose of municipal governments either explicitly or implicitly in oral and written submissions during the Task Force's "Public Hearings'.

- ➢ Furthermore, the thoughts expressed during the Task Force's public consultations echoed the views and recommendations on this issue contained in several reviews in this province conducted in recent years that have devoted some attention to the purposes as well as the rights, roles, and responsibilities of municipal governments. These reviews have included:
  - The 1996 Memorandum of Understanding (MOU) between Saskatchewan Municipal Government and the Saskatchewan Urban Municipalities Association (SUMA) and the Saskatchewan Association of Rural Municipalities (SARM);
  - The SUMA 1995 Task Force on Urban Government Renewal (TFUGR); and
  - The 1993 Inter-Community Cooperation and Community Quality of Life Advisory Committee Report.

KEY OPTIONS

- ➢ There are two basic options related to the nature and scope of the purpose of municipal governments in municipal legislation:
  - **Option 1:** Retain Current References to Municipal Purpose
  - **Option 2:** Develop New 'Municipal Purpose Statement'

Option 1

● Retain Current References to Municipal Purpose

- ➢ Under this option, the existing implicit references to the purpose of municipal governments that are found in the sections regarding the general bylaw making powers of municipalities would be retained.

- ➢ At most they might be bundled into a section of the legislation explicitly titled 'Purposes of Municipal Governments'. Such a section would be included either within the preambles or the initial sections of municipal legislation.

Option 2

● Incorporate New 'Municipal Purpose Statement'

- ➢ This option would entail the inclusion of a new 'Municipal Purpose Statement' into municipal legislation.

- ➢ In creating a new 'Municipal Purpose Statement' special attention would be devoted to two key matters:
  - Articulating a logically integrated and relatively precise set of specific purposes; and
  - Articulating a set of purposes that would provide a clear and logical basis on which to articulate a corresponding set of general functions (i.e., roles and responsibilities) for each purpose.

- ➢ Such a 'Municipal Purpose Statement' would be included either within the preambles or the initial sections of municipal legislation.

KEY DIRECTIONS

- **Consideration should be given to developing a new 'Municipal Purpose Statement' to be included either in the Preamble or in an initial section of both core municipal legislation and related legislation.**

- **Consideration should be given to producing a new 'Municipal Purpose Statement' that is sufficiently precise to provide the basis for developing frameworks regarding the functions, powers, finances, governance, and management for each category or type of municipal government.**

- **Consideration should be give to developing a new "Municipal Purpose Statement' that is relatively clear and precise on two key matters:**
  - **The nature and scope of the fundamental purposes of all municipalities.**
  - **The key differences, if any, in the fundamental purposes of various forms or types of municipalities.**

- **Consideration should be given to producing a 'Municipal Purpose Statement' that includes provisions and principles regarding the following types of matters:**
  - **Providing democratic governance and accountable public management;**
  - **Providing the governance, management, planning and development, and delivery of public services within their boundaries that meets the needs and preferences of their respective ratepayers and residents;**
  - **Fostering economic, community, social, cultural and environmental development; and**
  - **Ensuring good quality of life for members of their communities.**

KEY RATIONALE

- The proposed directions outlined above will help accomplish the following:
  - Clarify the broad purposes of all municipal governments in the province.
  - Clarify the differences, if any, in the purposes of different categories or types of municipal governments.
  - Provide a basis on which to renew the framework for aligning municipal functions, powers, and finances according to the broad purposes of municipal governments.
  - Provide the framework for organizing and structuring municipal legislation in a more clear and logical fashion.
  - Provide a statement of purpose that extends beyond general statements to include key principles about democracy, accountability, local preference, and community quality of life that are reaffirmed in other aspects of municipal governance, management, and legislation.

KEY ISSUE

2. Uniformity or Variance in Municipal Purpose

KEY QUESTION

- *Should there be uniformity or variance in the purpose of municipal governments?*

KEY FACTS

(a) Degree of Uniformity and Variance in Saskatchewan

- As noted above, insofar as it can be said that there are some provisions regarding the by-law making powers of rural, urban and northern municipalities that implicitly speak to the purpose of municipal governments, they are essentially the same in all three acts.

(b) Degree of Uniformity and Variance in Other Jurisdictions

- The 'Purpose Statements' of municipalities in some jurisdictions seem to be the same for all categories or types of municipalities.

- Legislation in other provinces reveals that although the stated purpose of various categories or types of 'local municipal' governments are essentially the same, there are some differences in the stated purposes of 'local' municipal governments and 'regional' municipal governments or authorities.

KEY VIEWS

- Those who made oral and written submissions during the Task Force's public consultations and addressed the issue of the purpose of municipal governments were divided on the question of whether the purpose of all municipal governments has been, or should be, the same.

- Whereas some indicated that the fundamental purpose of all municipal governments should be the same, others indicated that the fundamental purpose of municipal governments is not, and should not be the same.

- The latter perspective was particularly evident in submissions that addressed the fundamental purposes of rural municipalities as compared to larger urban municipalities.

- Such submissions revealed a widespread belief that the principal purpose of rural municipalities has been, and should continue to be, to provide the basic local transportation infrastructure and the pest controls needed by agricultural communities.

- Although this was a widespread belief, it was by no means unanimous. Many acknowledged that another purpose of rural municipal governments has been, and should continue to be, providing some of the basic community and recreational services comparable to those provided by many urban municipalities.

- Other submissions indicated that although the general or fundamental purpose of municipalities should be the same, the functions should not necessarily be the same. Such submissions suggested that different types of municipalities (e.g., urban and rural) as well as different municipalities of the same type (e.g., rural) have, and should continue to have, different purposes and perform different functions based on the needs and preferences of their communities and ratepayers.

KEY OPTIONS

- There are two basic options regarding the degree of uniformity or variance in the fundamental purpose of municipal governments.
  - **Option 1:** Uniformity in Purpose
  - **Option 2:** Variance in Purpose

Option 1

Uniformity in Purpose

- Under this option all municipalities would have precisely the same fundamental purpose.

Option 2

Variance in Purpose

- Under this option either all or some categories or types of municipalities would have a different fundamental purpose.

KEY DIRECTIONS

- **Consideration should be given to whether the purpose of the various categories or types of municipal governments should be uniform or variable.**

- **Consideration should be given to what the implications would be for, among other things, the functions and powers of various categories or types of municipal governments if their purpose were either uniform or variable.**

KEY RATIONALE

- Giving consideration to whether the fundamental purpose of municipal governments should be uniform or variable has important implications for other facets of the municipal system. In particular, it has important implications for their functions and finances and their governance and management frameworks. This is a fundamental issue that needs to be addressed in conjunction with what are to be the fundamental purposes of municipal governments. Indeed, it is impossible to separate the two issues.

IV. MUNICIPAL FUNCTIONS

Introduction

KEY FOCUS

- This section focuses on three major issues related to municipal functions:
  1. **Clarifying Optional and Mandatory Municipal Functions**
  2. **Uniformity or Variance in Municipal Functions**
  3. **Realignment of Municipal Functions**

- The principal focus of this section is on whether:
  - the optional and mandatory functions of municipal governments relative to other governments and local authorities are sufficiently explicit and clear in municipal legislation;
  - functions should vary among different types of municipalities; and
  - the functions of municipalities should be realigned.

KEY IMPORTANCE

- There is considerable interest in the functions that municipal governments are authorized or mandated to perform and those that they actually perform.

- The alignment of the functions and the corresponding roles and responsibilities of municipal governments is important not only for municipal governments, but also for the provincial government, other local authorities, ratepayers, and residents.

- Both the proper alignment of functions and proper degree of clarification regarding the precise functions of municipal governments are essential for effective and accountable municipal governance and management.

- Decisions on the alignment of functions could have major implications for other important facets of the municipal system that should be considered for review and renewal, including the following:
  - The classification of municipal governments;
  - Municipal powers and duties;
  - Access to revenues from both 'own sources' and provincial transfers; and
  - The need for separate legislation for various types of municipalities or even separate municipal charters for some individual municipalities.

KEY THEMES

- The key themes in this section are that:
  - There is insufficient clarity both in the municipal statutes regarding mandatory and optional functions of municipal governments and in the functions actually performed by municipal governments.
  - There is a need to consider the existing and future degree of uniformity and variance both in the mandatory and optional functions outlined in the municipal statutes and in the functions actually performed by municipal governments.
  - Consideration should be given to undertaking a comprehensive review of the functions that are currently being performed and those that should be performed in the future by various types of municipal governments. In doing so, special attention should be devoted to the alignment of roles and responsibilities for each function between various types of municipal governments and the provincial government.

KEY ISSUE

1. Clarifying Optional and Mandatory Functions

KEY QUESTIONS

- *Are the basic functions of municipal governments stated in a sufficiently explicit and clear manner within the legislation?*
- *Is the distinction between the functions that municipalities must perform and those that they may perform if they choose, sufficiently clear and appropriate?*

KEY FACTS

- There is no comprehensive or explicit listing of the basic functions of Saskatchewan municipalities in core municipal legislation. Rather, the functions of the various types of municipal governments are scattered throughout the three core statutes and a number of related statutes.
- Mandatory functions listed in the core municipal statutes include: repairing and maintaining roads, hiring certain employees, conducting elections, holding meetings, adopting budgets, and levying taxes.
- Mandatory functions mentioned in the related statutes include: ensuring police protection *(Police Act);* enforcing building and fire prevention standards *(Uniform Building & Accessibility Standards Act, Fire Prevention Act);* and emergency planning (*Emergency Planning Act);*
- Optional functions in both core and related legislation include: providing utilities, fire, police, ambulance and emergency services; licensing business, animals and other activities; land use planning; parks, libraries, recreational and cultural facilities, economic development; and public health.

KEY PROBLEMS

- The current classification and organization of municipal functions in legislation suffers from the following:
  - Lack of clarity regarding the core municipal functions for which all municipalities are responsible.
  - Lack of clarity of any variations in the core functions among different types of municipalities.
  - Dispersal of mandatory and optional municipal functions between various core and related statutes. For example, mandatory functions such as policing, emergency planning, and administering and enforcing building and fire prevention standards are all contained in related statutes and barely referred to in the core municipal acts.
  - Confusing requirements for the performance of municipal functions due to dispersal of mandatory and optional municipal functions between various core and related statutes. For example, all three core acts state that municipalities may establish or contract for fire prevention and emergency response services, making these functions appear to be optional; but *The Fire Prevention Act* and *The Emergency Planning Act* make the enforcement of fire prevention standards and the provision of emergency planning and emergency measures mandatory for all municipalities.
  - Lack of classification or categorization by type of function (e.g., protective services functions, infrastructure service functions); or by optional or mandatory function.
  - Lack of logic in grouping functions of comparable scope. Instead, there are odd groupings of general functions (such as roads) with specific duties (such as holding meetings and adopting budgets).

- Current legislation uses "must" and "shall" for mandatory functions, which are listed as 'duties' in the statutes and 'may' for optional functions, which are listed as' powers' in the statutes.

- However, a better indicator of functional prescriptiveness or permissiveness is the degree to which municipalities are free to choose how they perform their functions. Saskatchewan's legislation has a high degree of precriptiveness regarding how municipalities perform both mandatory and optional functions. Such prescriptiveness makes the distinctions between mandatory and options functions confusing and unclear.

KEY VIEWS

- Many of those who made oral and written submissions during the Task Force's public consultations generally supported the following proposed directions regarding municipal functions:
  - Municipal government functions should be clearly outlined in legislation;
  - Municipal governments should be responsible for all of the functions for which they are currently responsible, either individually or collectively;
  - Municipalities should perform, though not necessarily have primary financial responsibility for, essential and core governance functions within their boundaries such as: service delivery, bylaw enactment and enforcement, taxation, and strategic planning and development; and
  - Other municipal roles and responsibilities outside of the core or essential functions should be determined largely by the needs and preferences of the electorates of individual communities and municipalities.

- The Task Force's public consultations also revealed that there are considerable differences of opinion among municipal officials and residents and ratepayers regarding what constitutes core or essential municipal functions and duties and what constitutes discretionary or optional functions.
  - Some indicated that municipal governments should be responsible both for "hard services (e.g., roads, water, sewer, waste/garbage management) and "soft services" (e.g. protective services such as fire, police and emergency measures, and culture and recreation).
  - Some indicated that rural municipal governments should be responsible only for "hard services" and that their sole or at least principal function should be to take care of roads and drainage.
  - Some indicated that the optional or discretionary functions to include planning, economic/community development, culture, parks and recreation, while others indicated that many of these are essential, core municipal functions.

KEY OPTIONS

- There are two basic options for clarifying municipal functions in legislation:
  - **Option 1:** Explicit Listing of Mandatory and Optional Functions
  - **Option 2:** 'Spheres of Jurisdiction' Approach

Option 1

Explicit Listing of Optional and Mandatory Functions

- The functions of Saskatchewan's municipalities could be made more clear and explicit through the following:
    - Listing municipal functions within one designated area of municipal legislation;
    - Classifying and categorizing municipal functions in relation to the purposes of municipal governments;
    - Listing optional municipal functions in one designated area, and mandatory functions in another area;
    - Defining 'functions' as broad or specific areas of responsibility within which municipalities may have a number of 'powers' and 'duties', including ability or responsibility to regulate, provide, arrange, support;
    - Grouping specific related functions into broader categories of functions (e.g., protective services functions, infrastructure and service delivery functions, regulatory functions, planning & development functions, etc.); and
    - Placing more detailed provisions regarding the specific activities, powers and duties within each functional area in subsequently titled sections of the legislation with even more specific regulations, limits and parameters included in separate regulations.

- Few provinces and territories clearly list all of the functions of their municipal governments within their core municipal legislation. Most jurisdictions, like Saskatchewan, implicitly list municipal functions through the categorization or classification of various powers and duties of their municipalities in their core statutes.

- Prince Edward Island lists all the general functions that two main types of municipalities (towns and villages) can perform in one section of its *Municipalities Act*, and a smaller list of functions that quasi-municipalities (community improvement committees) can perform in another section.

- Manitoba's *Municipal Act* distinguishes between two types of functions under the headings: 1) Optional 'Powers' and 2) Obligatory or mandatory 'Duties.' The Act lists Powers first and then Duties. In those lists there is a mix of both general functional areas such as economic development and specific activities such as retention and disposition of records and unclaimed bodies.

- British Columbia's categorization of municipal functions and indeed the entire organization of its Municipal Act follows the order and logic of its initial statements regarding the 'Purpose of Local Governments', namely:
    - ***Providing good government***
      (Incorporation, Elections, Corporate Powers, Bylaws, Financial Powers);
    - ***Providing services, facilities, and other things necessary and desirable for all or part of its municipality or community***
      (Fire, Police, Health, Utilities, Recreation, Community Services);
    - ***Providing stewardship of the public assets of its community***
      (Business Licensing and Regulation, Building Regulation, Miscellaneous Regulation – animals, trees, nuisances, etc.); and
    - ***Fostering current and future economic, social and environmental well being*** (Improvement Districts, Regional Districts, Regional Growth Strategies, Management of Development, Heritage Conservation).

Option 2

● **'Spheres of Jurisdiction' Approach**

- The 'spheres of jurisdiction' approach has been used or are being proposed in many provinces and territories to categorize and classify the various bylaw-making powers of municipalities for various broad functions, rather than for specific roles that flow from performing that function. This approach is intended to give municipalities the requisite flexibility to deal with a number of matters without requiring express authority for each individual matter.

- The use of the 'spheres of jurisdiction' approach to date reveals that while various provinces have made some good progress on producing lists of 'spheres of jurisdictions' the nature and scope of each sphere is not equally broad or general. Several of the lists of 'spheres of jurisdictions' mix highly general functions with highly specific roles and responsibilities.

- Moreover, such lists of 'spheres of jurisdiction' do not distinguish between optional and mandatory functions. In other words, they do not distinguish between matters that they may perform and those that they must perform.

- Using the spheres of jurisdiction approach to categorize general functional areas could help to classify and list municipal functions explicitly according to any or all of the following:
    - Core and mandatory functions versus discretionary and optional functions.
    - Functions for which municipalities have sole responsibility and functions for which they have shared responsibility;
    - General functional areas such as protective services, public utilities, community services, planning, transportation, and specific functions within these areas such as policing, fire protection, emergency planning, land use planning, recreation, culture, and roads; and
    - Functions of a local nature versus functions of a regional nature.

- The specific powers and duties for all spheres or within individual spheres could then be listed as necessary, without the need for much repetition.

- The 'Spheres of Power' embodied in Ontario's proposed *Municipal Act* and in Newfoundland's proposed *Cities Act* provide useful examples of broad functional areas that collectively encompass many if not all of the specific functions, services and regulatory matters for which municipalities are generally responsible, such as:
    - Waste management, water supply, utility services;
    - Parks, recreation and culture;
    - Transportation, highways, traffic and parking;
    - Drainage;
    - Natural development;
    - Economic development;
    - Business, business activities and persons engaged in business;
    - Safety and protection of people and protection of property, fire, police
    - Noise, odour, nuisances, etc.;
    - Animals and activities in relation to them;
    - Structures, including buildings and signs;
    - Land use;
    - Heritage conservation; and
    - Other municipal services.

KEY DIRECTIONS

- **Consideration should be given to listing all optional and mandatory municipal functions in one section of the core municipal legislation.**
- **Consideration should be given to using the 'Spheres of Jurisdiction' approach in classifying and listing municipal functions according to any or all of the following:**
  - **The Purpose(s) of Municipal Governments;**
  - **Optional versus Mandatory Functions;**
  - **Sole Responsibility versus Shared Responsibility; and**
  - **Local versus Regional Functions.**
- **Consideration should be given to making all 'functional areas' and 'spheres of jurisdiction' sufficiently broad to include all of the following:**
  - **Services provided, delivered, arranged, and/or supported by municipal governments;**
  - **Matters subject to municipal regulation; and**
  - **Other areas of optional or mandatory responsibility.**

KEY RATIONALE

- The proposed directions would help accomplish the following:
  - Clearly and explicitly list the functions of various forms or types of municipal governments for the benefit of municipal and provincial officials, residents and ratepayers without necessarily resulting in any realignment, downloading or uploading of functions;
  - Provide the framework to categorize municipal functions in one designated section of legislation;
  - Provide a general framework in which distinctions can be made regarding optional or mandatory functional areas;
  - Provide the framework for distinguishing between areas of municipal responsibility (whether optional or mandatory), areas of provincial responsibility, and areas of shared responsibility;
  - Provide the general functional framework in which specific municipal powers and duties can be allocated, either for individual functions or all functions; and
  - Provide the functional framework in which distinctions between municipalities can be made for financial or structural purposes.

KEY ISSUE

2. Uniformity or Variance of Municipal Functions

KEY QUESTIONS

- *Should all municipal governments perform the same functions or should different types of municipalities perform different functions?*

KEY FACTS

- It is difficult to compare the differences in the functions between rural, urban, and northern municipalities due to differences in the organization and form of the statutes, and the fact that some functional differences appear in a variety of related statutes and regulations. In addition, there is no clear differentiation of functions in the Urban and Northern Acts for different forms of such municipalities (e.g., cities, towns, and villages).

KEY PROBLEMS

- Currently, there appear to be only minor differences in functions among rural, urban and northern municipalities in the core statutes. These involve areas such as regulation of store hours and smoking in public places, establishing business improvement districts and municipal development corporations, and providing agricultural services.

- In practice, the functional load of various municipalities varies according to:
  - Requirements regarding how certain types (sizes) of municipalities provide certain functions (e.g., police, fire and assessment);
  - The decisions and choices of councils to participate in or provide certain functions;
  - Financial expenditures on some functions among different municipalities; and
  - The fiscal and human resources capacity of different types of municipalities.

- This results in:
  - Unclear and potentially uneven functional load among municipalities;
  - Significant differences in how similar functions are or must be performed in different municipalities; and
  - Uncertainty among ratepayers and residents regarding the functions and the corresponding roles and responsibilities of various governments.

KEY VIEWS

- Oral and written submissions to the Task Force on the functions of municipalities were varied. Generally there was less supportive of the idea that all municipalities should perform the same functions, that the idea that different types of municipalities should perform different functions.

- These submissions suggest that different forms and types of municipalities (e.g., urban and rural) and even different municipalities of the same type should have different functions based on the needs and preferences of their communities and ratepayers and their financial and organizational capacity.

KEY OPTIONS

- There are two basic options on the alignment of municipal functions in legislation:
  - **Option 1: Variation of Functions**
  - **Option 2: Uniformity of Functions**

Option 1

- **Variation of Functions**

➢ Under this option provisions would be included in municipal legislation indicating that different types of municipalities or municipalities with different capacities would be authorized or required to perform different functions.

➢ For example, the functions of municipalities could vary according to:
  - Type of municipality – urban, rural, northern, city, town, village, local, regional, etc.;
  - Capacity of municipality – geographic, population, assessment bases

➢ To avoid confusion the special functions of any type or group of municipalities would be listed in the appropriate sections of municipal legislation so that any variation between them would be clearly visible.

➢ There are at least three examples of statutory frameworks that profile differences in the functions of various types of municipal entities.

➢ Ontario's current legislation, for example, profiles such differences by listing the mandatory functions of upper tier (regional) municipalities and the functions of lower tier (local) municipalities.

➢ British Columbia's municipal statute only lists the special functions that regional districts may perform in a special section of that statute.

➢ Prince Edward Island's municipal statute lists the functions of municipalities and those of quasi-municipalities.

Option 2

- **Uniformity of Functions**

➢ Under this options the statutory framework would indicate explicitly that the functions of all municipalities are uniform. In other words all municipalities would be authorized or required to perform the same functions.

➢ Few provinces explicitly state that all municipalities have the same functional roles and responsibilities. Instead, their core municipal legislation implies that all municipalities have the same functions and powers (e.g., Alberta and Nova Scotia).

➢ The work of a Task Force on municipal renewal in Manitoba produced in the mid-1990's recommended that there should be explicit uniformity of both obligatory and optional functions for urban and rural municipalities.

F2

KEY DIRECTIONS

- **Consideration should be given to producing a detailed assessment of the nature and scope of the degree of uniformity or variance in the following:**
  - **The mandatory functions in core and related municipal legislation;**
  - **The optional functions in core and related municipal legislation; and**
  - **The mandatory and optional functions actually performed by all municipal governments.**

- **Consideration should be given to include explicit provisions in municipal legislation that clarify the degree of uniformity or variance of the functions and the corresponding roles and responsibilities of all municipalities.**

- **Consideration should be given to undertaking negotiations between municipal and provincial representatives to determine the degree of uniformity or variance of functions that should exist both in statutes and in practice in the mandatory and optional functions and the corresponding roles and responsibilities of all municipalities.**

- **Consideration should be given to making uniformity or variation of functional roles and responsibilities among municipal governments the primary criterion in determining important matters such as:**
  - **The specific powers and duties of municipalities;**
  - **The specific autonomy of municipalities including the need for approvals;**
  - **Provincial performance based funding for municipal governments;**
  - **Additional sources of revenue for municipalities;**
  - **The typology and classification of municipalities; and**
  - **The need for separate legislation or charters for some municipalities.**

KEY RATIONALE

- The foregoing directions are based on the following considerations.

- The issue of the uniformity or variance in the functions and the corresponding roles and responsibilities of municipalities is of fundamental importance to the resolution of many other issues that must be addressed during the course of the municipal renewal initiative.

- At the moment it is very difficult, if not impossible, to determine the degree of uniformity or variance in the functions performed by various municipal governments.

- The lack of clarity in the existing degree of uniformity or variance in functions both at the statutory and practical levels makes it very difficult, if not impossible, to make appropriate decisions regarding the degree of uniformity and variance in other facets of municipal governance and municipal-provincial relations.

- The nature and degree of uniformity and variance not only in the mandatory or optional functions outlined in the municipal statutes, but also in the functions actually performed by various municipal governments, must be reviewed very carefully to ensure that they are based on sound reasons related to the needs and preferences of communities.

KEY ISSUE

3. Realignment of Municipal Functions

KEY QUESTIONS

- *Should there be any realignment of functions between municipalities and any other government or authority?*

KEY FACTS

- The current alignment of municipal functions relative to the functions both of other local authorities and of the provincial government is unclear. Part of the reason for this is the absence of comprehensive and explicit listing of the functions of municipalities in core municipal legislation, and that certain mandatory and optional functions of municipalities are dispersed in various related statutes.

KEY PROBLEMS

- The Task Force's consultations with elected and appointed municipal officials and a review of submissions and resolutions of the associations of various types of municipalities (i.e., urban, rural, northern, resort) and cities that have been produced in recent years reveal some problems of overlap and misalignment of functions. Such problems exist between municipal governments and both the provincial government and various local governing authorities (e.g., health boards, regional park boards, and regional library boards). These problems of overlap and misalignment stem from at least three major sources. First, the unclear or overlapping jurisdictional authority in legislation for certain functions. Second, the lack of municipal capacity (human, financial and organizational) that exists in certain instances for some municipalities to perform certain functions. Third, the reticence or unwillingness of some municipal councils to perform certain functions or participate in the performance of certain functions because they do not believe that it is necessary or desirable to do so.

- To eliminate such problems, some realignment may be necessary in some functions including, for example:
  - Public Health;
  - Building standards and fire inspections;
  - Emergency planning and services;
  - Water supply, water sources and drainage;
  - Land use planning;
  - Traffic control and provincial highways in urban municipalities; and
  - Funding for regional libraries and regional parks.

KEY VIEWS

- Submissions made during the Task Force's public consultations reveal a consensus on some issues regarding the alignment of some functions and a lack of consensus on others.
  - There was a consensus that that health, education and welfare should not be municipal functions. Nevertheless, some submissions indicated that legislation should not prevent municipal governments from becoming involved in assisting in the performance of such functions.
  - Submissions from regional library boards stated that they perform a special and distinct function that, like education and health, should not be designated as a municipal function *per se*.
  - Some indicated that public health and ambulance services should not be municipal functions.
  - Some indicated that policing in rural areas should be a function of the federal and provincial governments, not municipal governments.
  - Some indicated that the economic development function should continue to be performed by regional authorities and that the level of municipal responsibility for funding them should be reduced.

KEY OPTIONS

- There are two key options regarding the alignment of municipal functions:
  - **Option 1:** Retain Current Alignment of Municipal Functions
  - **Option 2:** Review and Renew Alignment of Municipal Functions

Option1

Retain Current Alignment of Municipal Functions

- Under this option the current alignment of municipal functions relative to other local authorities and the provincial government would remain the same, and the potential problems of overlap and misalignment would continue.

Option 2

Review and Renew Alignment of Municipal Functions

- The Saskatchewan Municipal-Provincial Roundtable has acknowledged that the realignment and updating of local government functions is essential for updating municipal legislation to accommodate both urban and rural interests and foster greater voluntary urban-rural and urban-urban cooperation and consolidation.

- Several provinces including British Columbia, Ontario, and Nova Scotia have either undertaken or are in the process of undertaking extensive reviews of the alignment of municipal functions. The stated objective is to review and renew the alignment of roles and responsibilities not only between municipal and provincial governments, but also between the various levels or tiers of municipal governments.

- Since 1998 the Nova Scotia Department of Housing and Municipal Affairs together with the Union of Nova Scotia Municipalities have been jointly conducting a review of municipal and provincial "Roles and Responsibilities". The review was undertaken in response to what have been described as changing expectations, new fiscal realities, new provincial initiatives and demographic and social shifts in the province.

- The province of Ontario's "Who Does What" review panel produced a substantial realignment of the roles and responsibilities of provincial and municipal governments since 1997. The review panel focused on emergency services, social services, community health services, transportation and utilities, and other municipal services. The review panel also developed cost-sharing formulae for both the provincial government and local and regional municipal governments for various functions or services.

- In reviewing and renewing the alignment of functions, some attention should be devoted to the distinction that is being made today between municipal governments as 'producers of services' and 'arrangers of services.' If they are viewed as arrangers of services several options regarding service delivery and functional alignment are possible. Municipal governments can determine which services should be provided, but these services can be delivered through contractual arrangements with various public and private sector agencies.

KEY DIRECTIONS

- **Consideration should be given to undertaking a detailed review of all optional and mandatory municipal functions to determine the following:**
  - **That the distinctions between optional and mandatory functions are appropriate and clear;**
  - **That the alignment of optional and mandatory functions for each type and sub-type of municipality is appropriate and clear; and**
  - **That the alignment of functions both between the municipal and provincial governments, and between municipal government and other local authorities is appropriate and clear.**

- **The review of municipal functions should take into account all of the following:**
  - **Public expectations of municipal and provincial governments to perform certain functions;**
  - **Fiscal realities and capacities of municipal and provincial governments;**
  - **Future federal, provincial and other government initiatives;**
  - **Demographic and social shifts in Saskatchewan;**
  - **Services to property versus services to people**
  - **New and innovative arrangements in public service delivery.**

KEY RATIONALE

- The proposed directions regarding the alignment of municipal functions are consistent with previous directions regarding the clarification of municipal roles and responsibilities and would result in the following:
  - A resolution of any problems of overlap and misalignment that exist in the current alignment of functions.
  - Improved municipal-provincial relations through the clarification of functional responsibilities.
  - Improved relations between municipal governments and other local authorities responsible for key functions that affect local communities.
  - Provide a clear functional framework that is need to review and harmonize both the frameworks for authority and autonomy, and the fiscal relationships between municipal and provincial governments.

V. MUNICIPAL POWERS

Introduction

KEY FOCUS

- This section of the report focuses on three key issues:
  1. **Municipal Powers**
  2. **Municipal Autonomy**
  3. **Uniformity or Variance in Powers and Autonomy**

KEY IMPORTANCE

- Delineating the appropriate nature and scope of municipal powers and autonomy is essential for the effective operation of the municipal system and for ensuring that municipal governments have the means to perform their functions and fulfill their fundamental purposes.

- The proper alignment of municipal powers and autonomy is of fundamental importance for effective and accountable governance and management.

- This is an issue of considerable interest and importance not only to the municipal and provincial governments, but also to other governments and governing authorities and the general public because it has major implications for them all.

KEY THEMES

- The major themes in this section are that:
  - The alignment of powers and autonomy within statutes is problematic both in that it is not very clear and precise, and that it does not meet the special needs of various categories or types of municipal governments;
  - A detailed review of the alignment of powers and autonomy at this time would be beneficial;
  - Such a review should consider several important issues related to the powers and autonomy including the degree of uniformity or variance that should exist between and among various categories or types of municipal governments; and
  - Some of the innovations in other provinces for dealing with issues of powers and autonomy may be of some value for the municipal system in this province.

KEY ISSUE

1. Powers and Duties of Municipal Governments

KEY QUESTIONS

- *What directions should be taken in legislation regarding the corporate, regulatory, service and financial powers of municipalities?*

KEY FACTS

- Municipal statutes grant municipal governments the following types of powers:
  - Corporate or Governance Powers (e.g., hire staff, enter agreements and contracts, acquire and manage assets and resources);
  - Regulatory or Bylaw Powers (e.g., control, restrict, prohibit, license, enforce, etc.);
  - Service Powers (e.g., plan and deliver ' hard' and 'soft' services, construct, maintain, infrastructure and facilities) ;and
  - Financial Powers (e.g., levy and collect taxes, charge fees, and make grants, etc.).

KEY PROBLEMS

- There are several problems with the way that powers are currently assigned in municipal statutes:
  - First, they are assigned in a highly prescriptive, specific, narrow and itemized manner.
  - Second, there is high degree of prescription regarding procedures and requirements not only for mandatory functions but also for optional functions.
  - Third, there are lengthy provisions prescribing how various mandatory and optional functions, including relatively minor functions such as control of nuisances and animals, are to be performed.
  - Fourth, there is repetition and duplication of the same types of specific powers in different functional areas and in different municipal statutes;
- The prescriptive way that powers are assigned has a significant effect both on municipal officials and the courts. Municipal governments cannot do anything except what is explicitly specified in legislation because what might be termed 'residual powers' for the performance of any particular function are deemed to be beyond the scope of their assigned powers.

KEY VIEWS

- Oral and written submissions to the Task Force were supportive of both the clarification and the enhancement of municipal powers. Elected and appointed municipal officials identified the need for increased powers related to several facets of governance and management including the following:
  - Internal governance matters (e.g., council sizes, committees);
  - Service delivery;
  - Regulatory matters;
  - Land-use Planning and Development matters; and
  - Financial and taxation matters.

- They also advocated moving away from the current prescriptive approach in assigning municipal powers, and moving toward what is know as the 'natural person powers' approach.

- Those who favoured an enhancement of municipal powers pointed to what they perceived as insufficient authority and autonomy of municipal governments to deal with certain key matters of importance to their communities.

KEY OPTIONS

There are four basic options for clarifying and improving the corporate, regulatory, service, and financial powers of municipalities in legislation:

- **Option 1:** Broaden Corporate Powers
- **Option 2:** Include Special Sections for Special Governmental Powers
- **Option 3:** Include 'Spheres of Jurisdiction'
- **Option 4:** Include 'Natural Person Powers'

Option 1

Broaden Corporate Powers

- One option for improving the nature and scope of the powers of municipal governments is to broaden corporate powers.
- Several jurisdictions have broadened the corporate powers of their municipal governments in recent years.

- In 1998 British Columbia broadened the key corporate powers of municipalities in several areas of municipal governance and management without providing 'natural person powers.' These key areas are:
  - Agreements and contract;
  - Buying and selling property;
  - Employee management;
  - Delegation of authority; and
  - Granting aid.

- Manitoba's latest Municipal Act outlines broader corporate powers than existed before in certain key areas such as acquiring and mortgaging property, entering into agreements, taxation, regulation and expropriation. The decision to broaden the corporate powers was based on the recommendation of its municipal review panel that considered and rejected giving municipalities 'natural person powers'. It did so because it felt that municipalities require powers to deal with problems that can not totally be resolved through the use of natural person powers.

- The Municipal Legislation Review Committee of the Northwest Territories made the same recommendation and for the same reasons. It expressed concern that there could be unforeseen problems with the 'natural person powers' approach. The Committee believed that expanding specific corporate powers, as was done in Manitoba, could solve many of the problems that their municipalities had with current legislation.

Option 2

Include Special Sections for Special Governmental Powers

- There are a number of additional powers that municipalities may require that extend beyond general corporate powers or may not be able to be accommodated through, or desirable in, a 'spheres of jurisdiction' approach. Specifically, these might include:
  - Requiring individuals to do certain things;
  - The ability to expropriate land; and
  - The ability to tax and levy fees.

- Alberta and Manitoba both distinguish these as 'special' powers within separate parts of their Municipal Acts. Ontario's proposed municipal act is designed to do the same by including what are referred to as 'governmental' powers. Conversely, the proposed Cities Act for Newfoundland includes all of the above as specific powers within all municipal spheres of jurisdiction.

Option 3

Include 'Spheres of Jurisdiction'

- Traditionally, the powers of municipal governments either to regulate certain activities or to provide certain services have been conferred in minute detail within municipal legislation which describe in minute detail what municipalities may do and how they must do it.
- 'Spheres of jurisdiction' or 'spheres of powers' is an approach designed to replace the detailed and prescriptive grant of powers for relatively specific functions or facets of certain functions with a broad grant of powers. Within those spheres of jurisdiction municipalities have the freedom to exercise all their powers, including corporate powers, natural person powers, and a variety of specified powers) in performing various functions.
- The 'spheres of jurisdiction' approach is a means to describe in general terms what functions municipal governments may or must perform, without prescribing in detail how they must perform those functions. Only in limited circumstances would the functions that fall within a sphere of jurisdiction be prescribed for purposes such as protecting the public interest or to maintain uniform provincial standards.
- Many provinces and territories, including British Columbia, Alberta, Manitoba, Ontario, Newfoundland, New Brunswick and the Northwest Territories, have either implemented or are considering the implementation of the 'spheres of jurisdiction' approach in their legislation.
- The 'spheres' designated in various provinces often confuse and mix general functional areas with specific regulatory activities and service provision including:
  - Safety, health, well being and protection of people and property;
  - People, activities and things on or near public places;
  - Activities or things in or on private property, wild and domestic animals;
  - Municipal streets, roads, sidewalks, lighting, transportation and traffic;
  - Businesses, business activities and person engaged in business;
  - Drains and drainage;
  - Preventing and fighting fires; and
  - Sale and use of firecrackers, fireworks and firearms.
- If a 'spheres of jurisdiction' approach were adopted using the broader functional areas as described in an earlier section of this report, then only the specific optional 'powers' and mandatory 'duties' for all or for each sphere would have to be itemized.
- Alberta's Municipal Act and Newfoundland's proposed Cities Act provide useful examples for itemizing the various municipal powers and duties within 'spheres of jurisdiction' as follows:
  - Regulate or prohibit;
  - Differentiate by class and deal with differently;
  - Provide for a system of licenses, fees, permits and approvals (including the duty to set out conditions for approval, terms, appeals);
  - Provide for exceptions and exemptions;
  - Provide for the enforcement of regulations;
  - Make rules for the provision, operation and administration of a service; and
  - Recover costs and fees associated with enforcement, regulation.

Option 4

Include 'Natural Person Powers'

- 'Natural person powers' provide municipal governments with the same rights, privileges and powers of a person. Bestowing natural person powers on municipal governments means that they are endowed with the same rights, privileges and powers as natural persons in conducting their affairs. This means that they may perform various roles and responsibilities that are linked to their fundamental purposes and functions as municipal governments as they deem appropriate, without the explicit and detailed statutory authorization to do so in the following areas:
  - Day to day management and administration;
  - Organizing their administration;
  - Delegation of roles and responsibilities;
  - Hiring and dismissing employees;
  - Acquiring, owning , and mortgaging property;
  - Investing and borrowing money; and
  - Entering into contracts and agreements.

- Generally, natural person powers to not have any effect on 'governmental powers' such as enacting bylaws or imposing various taxes and fees because these are things that ordinary people cannot do.

- In theory, 'natural person powers' provide municipal governments with the authority to do whatever they feel is required in performing their functions and fulfilling their purposes unless specifically restricted by legislation.

- In practice, however, 'natural person powers' are limited both by provincial and federal legislation and provisions in the constitution. They can also be subject to limitations and restrictions regarding certain matters that are explicitly specified in municipal legislation such as borrowing, investments, and operating for-profit enterprise.

- Several provinces and territories have either given or are considering giving some or all of their municipalities natural person powers. This includes Alberta, Nova Scotia, Ontario, Newfoundland, and the Yukon.

- Alberta was the first jurisdiction in Canada to provide its municipal governments with' natural person powers'. Alberta's *Municipal Government Act* provides all municipalities with 'natural person powers' which are subject only to limitations within the municipal statute or other provincial statutes. These limitations relate to the powers to do the following: borrow; make investments; provide loans and loan guarantees; operate for-profit enterprises; and acquire, develop, and manage property.

- Ontario's proposed new municipal act provides municipalities with natural person powers only in the areas in which municipalities already have the legislative authority to operate. In other words, it does not authorize them to perform functions that are beyond the scope of their jurisdictions as defined in legislation.

- Newfoundland's proposed Cities Act would give each city 'natural person powers' and full discretion to exercise these powers to meet local conditions and respond to existing and future local issues. The only limits to these powers are that they must not be inconsistent with federal or provincial legislation; outside the 'competence' or powers allocated to the provincial government under the Canadian constitution; or expressly excluded from the cities' authority by provincial legislation.

- Some of the potential advantages of 'natural person powers' include:
  - Simplifying and reducing the prescriptive nature of municipal legislation by replacing a variety of narrowly defined and highly specific municipal powers with one broad statement of natural person powers;
  - Enhancing municipal powers within existing areas of municipal jurisdiction without necessarily resulting in functional realignment;
  - Providing municipalities with greater freedom and flexibility regarding their day to day operations and management activities in order to respond in a timely fashion to problems and opportunities.
  - Continuing ability to place limitations and restrictions in areas of provincial or public interest or areas requiring provincial regulation.

- Some of the potential disadvantages of ' natural person powers' include:
  - Legal uncertainty about the scope of increased and enhanced municipal authority and powers because this is a relatively new innovation and there has not been any major legal test of 'natural person powers';
  - Potential for municipalities to require increased legal resources to address issues regarding the nature and scope of such powers both for administrative purposes and for legal or judicial purposes in the courts;
  - Transitional adjustments related to introducing the new concept, including educating municipal officials.

- In discussing the merits of 'natural person powers' it must be emphasized that it does not preclude or prevent a provincial government from placing any limitations on municipal governments that are deemed necessary. 'Natural person powers' do not bestow sovereignty on municipal governments.

- Several jurisdictions (e.g., British Columbia, Manitoba and NWT) considered the merits of the 'natural person powers' approach to empowering municipalities, but ultimately decided that a more prudent approach was to grant them broader 'corporate powers'.

KEY DIRECTIONS

- **Consideration should be given to clarifying and enhancing the corporate, regulatory, service, and financial powers of municipal governments subject to certain limitations and restrictions that are needed for safeguarding the provincial public interest, using all of the following:**
  - **Broadening corporate powers;**
  - **Including special governmental powers;**
  - **Including 'natural person powers' in certain key areas of governance, management and administration such as agreements and contracts, buying and selling property, and employee management; and**
  - **Including the 'spheres of jurisdiction' approach to delineating the regulatory and service provision powers of municipal governments.**

KEY RATIONALE

- The proposed directions regarding the corporate, regulatory, service and financial powers and duties of municipal governments would help accomplish the following:
  - Clarify the nature of these powers and duties in relation to both the general purpose and general functions of municipal governments;
  - Provide options for enhancing municipal powers and duties either in all or only in certain functional areas;
  - Clarify the current functional alignment of powers and duties without necessarily changing the alignment;
  - Provide all municipal governments with the flexibility, authority and responsibility to meet current and future needs of their communities in a timely manner;
  - Address concerns of municipal officials about specific provisions regarding enhanced powers in certain areas;
  - Reduce the degree of prescription of municipal legislation; and
  - Reduce the need for and involvement of provincial advisory services in certain corporate, regulatory and service matters of municipalities.

KEY ISSUE

2. Municipal Autonomy

KEY QUESTIONS

- *What directions should be taken regarding improving municipal autonomy?*
- *Do all municipalities have sufficient autonomy or do some require more autonomy?*

KEY FACTS

- In recent years, legislative amendments and departmental policy directions have increased municipal autonomy in several key areas such as:
  - Providing property tax exemptions or abatements for economic development purposes, including elimination of the business tax;
  - Removing provincial government involvement from boards of reference dealing with the dismissal of municipal clerks and treasurers; and
  - Reducing the need for ministerial approvals for most municipal bylaws and reducing provincially prescribed forms and notices.
- Nevertheless, there are still substantial limits to the scope of municipal autonomy.
- Limits to the scope of municipal autonomy are also evident in the following:
  - Statutory requirements to perform certain functions such as maintaining roads, enforcing building standards, and adopting budgets;
  - Prescribed minimum or maximum levels and limits on various financial matters;
  - Requirement for provincial approvals for financial matters such as long-term borrowing, investments, and the use of capital reserves and trusts;
  - Requirements for provincial approvals for operational matters such as amending planning and zoning bylaws, closing streets; and establishing cemeteries;
  - Prescribed procedures and forms for various functions or tasks; and
  - Adherence to provincial standards, regulations or other statutes in performing various functions or tasks.
- Limits to the scope of municipal autonomy are also evident in those matters for which the Minister can act unilaterally including:
  - The creation of certain municipalities (rural, northern municipalities);
  - The alteration of the boundaries of municipalities;
  - The annexation of areas to adjacent municipalities;
  - The reversion, conversion or dissolution of municipalities; and
  - The Changing or amending of agreements to create planning districts.
- Different levels of autonomy also exist for different forms, types and sizes of municipalities. For example:
  - Urban municipalities require ministerial approval to lease or sell land for downtown revitalization.
  - Any municipality over 5,000 in population must appoint their own police commission.
  - Urban municipalities under 1,000 or any rural or northern municipality may be required to submit its budget and proposed mill rate for approval if, in the Minister's opinion, its finances warrant.
  - Utility rates in resort villages, villages, towns and all northern municipalities require provincial approval.
  - Bylaws of northern municipalities regarding fees, penalties or grants are subject to ministerial approval, and all bylaws of northern hamlets are subject to the prior approval of the Minister.

KEY PROBLEMS

- The nature and scope of municipal autonomy is seen as problematic both by municipal and provincial officials. Both of them find the current nature and scope of municipal autonomy as problematic for their respective governance and management purposes. The lack of autonomy creates numerous problems for both of them including confusion of authority and responsibility, extra work both for municipal and provincial officials in complying with the measures that limit municipal autonomy.

KEY VIEWS

- Representatives of rural, urban and northern municipalities, and particularly the City Mayors group have raised concerns about over-regulation in a variety of areas including:
  - Internal operation of municipalities;
  - Agreements with other municipalities;
  - Land use planning, development plans and zoning bylaws;
  - Closing, leasing and selling of municipal streets; ;
  - Sale, use and lease of public reserves;
  - Traffic control and signs;
  - Establishing fees for utilities, building, plumbing and other permits;
  - Requirements to pass bylaws instead of less cumbersome council resolutions;
  - Fire protection standards and firefighter training;
  - Certification of clerks for smaller municipalities; and
  - Enforcement of nuisances and tax collection.

- Many participants in the Task Force's public consultations indicated that the autonomy of municipal governments should be increased and provincial approvals, regulations, and restrictions should be reduced particularly regarding matters such as the internal affairs of municipalities, the delivery of services, and land use planning. They maintained that:
  - Municipal governments are best placed to determine the needs and preferences of their communities;
  - The local electorate is very effective in holding councils accountable for their own internal affairs and the province should not 'second guess' the electorate by 'second guessing' councils; and
  - In some municipalities, the professional expertise for matters such as planning and development exceeds that of the provincial government.

- Nevertheless, many participants in those public consultations also acknowledged that the provincial government has an important role in the following types of matters:
  - Protecting individual and group rights;
  - Protecting the public interest;
  - Fostering and facilitating inter-municipal coordination and cooperation;
  - Establishing the legislative framework and the parameters within which municipalities are to operate and function; and
  - Establishing and ensuring provincial standards, guidelines and regulations in matters such as health, safety, and the environment.

KEY OPTIONS

- There are four options for clarifying and improving municipal autonomy in legislation:
  - **Option 1:** Clarify Role of Provincial Government
  - **Option 2:** Reduce Prescriptive Nature of Municipal Legislation
  - **Option 3:** Reduce Provincial Approvals
  - **Option 4:** Reduce Involvement of Provincial Agencies and Departments

Option 1

Clarify Role of Provincial Government

- This option would make explicit in legislation the areas of municipal governance for which the provincial government has a role and responsibility to regulate or control. These would include matters for which there is a need to:
  - Protect individual and group rights;
  - Protect the local or provincial public interests; and
  - Establish provincial standards, guidelines and regulations for health and safety.

- Generally the statutes of most provinces and territories do not explicitly state the precise role of the provincial government in municipal affairs.

- One means of clarifying such a role is to include explicit provisions and principles in municipal legislation regarding the role of the provincial government in the municipal sector comparable to those found in the municipal legislation of several jurisdictions noted below:
- BC's Municipal Act contains several principles regarding the relationship between local governments and the provincial government, including the principle that: "the independence of local government is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally";
- Nova Scotia's Municipal Act contains "Statements of Provincial Interest" regarding the Province's interest in the use and development of land, drinking water, flood risk areas, agricultural land, infrastructure and housing;
- Yukon's Municipal Act contains provisions stating that municipal governments are accountable to the Yukon government and that "both levels of government respect each other's responsibilities to provide programs and services to the people of the Yukon.; and
- Newfoundland's proposed Cities Act provides cities with spheres of power that are subject to the provincial standards in three general areas:
  1) The natural environment;
  2) The safety and protection of people and protection of property (fire, police); and
  3) Structures, buildings, fences and signs.

- The inclusion of principles regarding the provincial role in municipal affairs should balance concerns about the protection of citizens' rights and the public interest. Such protection may prove particularly important if municipalities are given either broader 'corporate powers' or 'natural person powers'.

Option 2

Reduce Prescriptive Nature of Municipal Legislation

- This option would see the removal from municipal legislation of any unnecessary prescriptive provisions regarding matters that fall within the scope of municipal jurisdiction that do not:
  - Protect individual and group rights;
  - Protect local or provincial public interests; or
  - Involve provincial standards, guidelines, or certification for health, safety, or other matters.
- The adoption of 'natural person powers' and the 'spheres of jurisdiction' approaches would reduce the need for prescriptive provisions in legislation regarding corporate, regulatory and service matters.

Option 3

Reduce Provincial Approvals

- This option would see the removal of requirements for provincial approval from those matters that are clearly within municipal jurisdiction and for which there is no need for the province to retain any authority in order to:
  - Protect individual and group rights;
  - Protect the local or provincial public interest; and
  - Establish or ensure standards, guidelines or certification.

- For those matters where the provincial government feels it is necessary to establish some guidelines, limits or restrictions, these could be established either as parameters, or minimum and maximum amounts. Provided that municipal governments act within these parameters, provincial approval would not be required. If a municipality were to exceed these parameters, provincial approval would be required.

- Provinces such as Alberta, and Manitoba have replaced requirements for approval for incurring deficits or debts with a requirement for approval only if the prescribed deficit or debt limits are exceeded.
  - Alberta's Municipal Act allows municipalities to borrow and carry debt provided that the municipality does not exceed a published 'debt limit', in which case ministerial approval is required.
  - Manitoba's Act requires ministerial approval of municipal budgets only if a municipality creates an operating deficit, exceeds the borrowing limit set by regulation or spends reserves/surpluses beyond a set limit.

- Similarly, Nova Scotia's Municipal Act requires ministerial approval of municipal planning documents only where they are in conflict either with provincial law or any of the statements of provincial interest included as part of the Act.

Option 4

Reduce Involvement of Provincial Agencies

- This option would see reduced or limited involvement and approval of various provincial agencies and departments in areas of clear municipal jurisdiction for either all or some types of municipalities. These areas and agencies might include:
  - Municipal Advisory Services – for municipal administration and corporate governance matters, hiring and certification of municipal administrators, community and land use planning matters.
  - Department of Highways and Transportation – for municipal streets, traffic and transportation matters outside provincial highways.
  - Saskatchewan Municipal Board – for municipal fees and utility charges, and borrowing within prescribed limits.

- This option would be consistent both with the recent policy directions of the provincial Department of Municipal Affairs to reduce provincial government approvals of municipal activities, and also with the 'natural person powers' and 'spheres jurisdiction' approaches adopted in other provinces.

- While recent amendments to municipal legislation have removed the provincial government from issues regarding the wrongful dismissal of municipal clerks and administrators, Saskatchewan is one of the few provinces where the provincial government continues to be involved in the certification of municipal clerks and administrators. Moreover, Saskatchewan is also one of a few provinces to require certification of municipal administrators in its municipal legislation.

KEY DIRECTIONS

- **Consideration should be given to including explicit provisions in municipal legislation that clarify both the provincial public interest and the provincial government's roles and responsibilities in municipal government matters, particularly regarding the following:**
  - **Protecting individual and group rights;**
  - **Protecting local and provincial public interest; and**
  - **Ensuring provincial standards and guidelines.**

- **Consideration should be given to exploring various means of enhancing municipal autonomy, including the following:**
  - **Reducing prescriptive nature of legislation;**
  - **Reducing requirements for approval;**
  - **Replacing requirements for approval with parameters within which municipalities do not require approval; and**
  - **Reducing involvement of municipal agencies and departments in matters of clear municipal jurisdiction, such as municipal roads and streets, land use planning, and personnel matters.**

- **Consideration should be given to whether an increase in municipal autonomy requires a corresponding reduction in provincial support and advisory services for certain matters for which municipalities must be not only autonomous, but also accountable and responsible.**

KEY RATIONALE

- The proposed directions regarding the autonomy of municipal governments could accomplish the following:
  - Balance enhanced municipal powers, authority and autonomy with enhanced municipal responsibility and a corresponding reduction in provincial support services and responsibility regarding municipal matters except where warranted by the local or provincial public interest, or by individual and group rights.
  - Allow municipal governments the freedom and flexibility to operate in their areas of jurisdiction within the general laws and regulations of the province that govern all individuals and corporations.
  - Provide the framework for a clearer and less paternalistic relationship between municipal governments and the provincial government based on their stated roles and responsibilities.

- The proposed directions could also result in a substantial improvement regarding two key matters:
  - Providing the provincial government with the means for protecting the provincial public interest and the rights of groups and individuals, and for establishing provincial standards and guidelines.
  - Providing municipal governments with greater freedom to undertake appropriate initiatives in serving their communities.

KEY ISSUE

3. Uniformity or Variance of Powers and Autonomy

KEY QUESTIONS

- *How much uniformity or variance should exist in the nature and scope of the powers and autonomy of various categories or types of municipal governments?*

KEY FACTS

- There are no clear principles in the current municipal legislation regarding differences in the powers and autonomy of different municipalities in Saskatchewan. Both major and minor differences currently exist among urban, rural and northern municipalities; different forms of municipalities (e.g., cities, towns, villages, northern towns and villages); and different sizes of municipalities (e.g., cities).

- There are differences in the nature and scope of the powers and autonomy of municipal governments in relation to various functions. Such differences exist not only between urban, northern, and rural municipal governments but also among the various types urban and northern municipal governments. Some of those differences are of minor significance and others are of major significance.

- In some instances the differences exist in legislation but not in practice, and in other instances the opposite is true.

KEY PROBLEMS

- The major problem with the current system is that the degree of uniformity or variance in the powers and autonomy of various municipalities is neither clear nor rooted in a clear set of criteria. The result is that it is difficult to ascertain the precise nature and scope of the powers and autonomy of any and all municipalities. In tun, this creates problems between the municipal and provincial governments regarding the authority and autonomy of the former in performing various roles and responsibilities.

KEY VIEWS

- Oral and written submissions during the public consultation processes revealed a diversity of opinion on the degree of uniformity or variance that should exist regarding the powers and autonomy of various categories or types of municipal governments.

- Whereas some invoked the fundamental principle of the equality of all categories or types of municipal governments, others indicated that different categories or types of municipal governments are likely to perform different functions and should therefore have different types or degrees of powers and autonomy for various functions.

KEY OPTIONS

There are two basic options in dealing with the alignment of municipal powers and autonomy in legislation:

- **Option 1:** Variation in Powers and Autonomy
- **Option 2:** Uniformity in Powers and Autonomy

Option 1

Variation of Powers and Autonomy

- Under this option the core municipal legislation would state explicitly that all municipalities do not have the same type or degree of powers and autonomy.

- Under this option the existing variation of powers and autonomy among different categories or types of municipalities would continue. Alternatively, the existing differences could be increased or additional differences could be introduced.

- Toward that end the municipal legislation would explicitly list and categorize any variances in the powers, duties and autonomy of municipalities according to:
- For example, the functions of municipalities could vary according to:
  - Type of municipality – urban, rural, northern, city, town, village, local, regional, etc.;
  - Capacity of municipality – geographic, population, assessment bases

- This option would be consistent with the clear and explicit listing of municipal functions in legislation and the clear and explicit listing of the variance or uniformity of municipal functions in legislation discussed in the previous section of this report. Ultimately a decision would have to be made regarding whether there would uniformity in powers and autonomy would be contingent on uniformity in functions.

Option 2

Uniformity of Powers and Autonomy

- Under this option core municipal legislation would state explicitly that all municipalities have the same type and degree of powers and autonomy.

- This would mean that all municipalities have the same powers and autonomy in performing functions that they may or must perform.

- This option would be consistent with the clear and explicit listing of municipal functions in legislation and the clear and explicit listing of the variance or uniformity of municipal functions in legislation discussed in the previous section of this report. Ultimately a decision would have to be made regarding whether there would uniformity in powers and autonomy would be contingent on uniformity in functions.

KEY DIRECTIONS

- **Consideration should be given to producing a detailed assessment of the nature and scope of the degree of uniformity or variance in the powers and autonomy of municipal governments.**
- **Consideration should be given to including explicit provisions in municipal legislation that clarify the degree of uniformity or variance of the powers and autonomy of municipal governments.**
- **Consideration should be given to undertaking negotiations between municipal and provincial representatives to determine the degree of uniformity or variance that should exist in the powers and autonomy of municipal governments.**

KEY RATIONALE

- The proposed directions are consistent with previous directions regarding the uniformity and variance among municipal governments in other elements of the municipal system such as municipal purpose, status and functions.
- These directions are based on the following considerations:
  - The issue of the uniformity or variance in the powers and autonomy of municipalities should be contingent on the degree of the uniformity or variance in many other elements of the municipal system that must be addressed during the course of the municipal renewal initiative.
  - At the moment it is very difficult, if not impossible, to determine the degree of uniformity or variance in the powers, duties and autonomy of various municipal governments.
  - The lack of clarity in the existing degree of uniformity or variance in the powers and autonomy of municipal governments both at the statutory and practical levels makes it very difficult, if not impossible, to make appropriate decisions regarding the degree of uniformity and variance in other facets of municipal governance and municipal-provincial relations.
  - The nature and degree of uniformity and variance in the powers and autonomy of municipal governments must be reviewed very carefully to ensure that they are based on sound reasons related to the needs and preferences of the communities they serve.

VI. MUNICIPAL FINANCES

Introduction

KEY FOCUS

- This section examines three key issues related to the finances of municipal governments:
  1. **Financial Powers**
  2. **Additional Own-Source Revenue**
  3. **Provincial Grants and Transfers**

- The principal focus of this section is on whether any improvements can be made to the current financial framework for municipal governments by making changes in legislation to any of the following:
  - The power of municipal governments to raise revenues from their own sources (own-source revenue);
  - Additional means of own-source revenue generation for municipal governments; and
  - Fiscal transfers from the provincial government to municipalities.

KEY REASONS FOR REVIEW & RENEWAL

- A review and renewal of the provisions and principles in legislation regarding the municipal financial framework is important for several key reasons:
  - There is considerable interest in this issue among municipal officials and ratepayers;
  - There is a need to ensure that there is an appropriate balance between the functions of municipalities and their finances;
  - Municipal governments require appropriate, adequate, predictable, and secure access to financial resources to perform their functions; and
  - Economic and demographic factors have had and will continue to have substantial effects on the finances of all municipal governments.

KEY THEMES

- The major themes of this section are that consideration should be given to the relative merits of existing and alternative statutory provisions regarding the following matters:
  - Explicitly defining the nature and scope of the existing revenue sources and the existing financial powers of municipal governments through various statutory means;
  - Expanding the 'own source' revenues for municipal governments;
  - Improving accounting, reporting, auditing, and approvals; and
  - Improving nature and scope of transparency and accountability in municipal-provincial fiscal relations.

KEY ISSUE

1. Financial Powers

KEY QUESTION

➢ *What directions should be taken in legislation regarding the financial powers of municipal governments in Saskatchewan?*

KEY FACTS

➢ Current municipal legislation provides municipalities with powers to access the following "own source" revenues:
- Property taxes on land, buildings, and some equipment and improvements;
- Fees for municipal services and utilities;
- Licenses, permits, fines and penalties; and
- Specific miscellaneous taxes such as amusement taxes and environmental taxes.

➢ These "own source" municipal revenues constitute upwards of 80% of the total revenues for urban and rural municipalities.

➢ Municipal legislation prescribes in detail how municipalities can use their financial powers in relation to the revenue sources listed above.

➢ Recent amendments to municipal legislation have provided municipal governments with the following:
- Power to implement variable mill rates and base taxes;
- Greater flexibility in tax exemptions and abatements; and
- Reduced provincial approvals regarding several financial matters.

KEY PROBLEMS

➢ Many municipalities are experiencing financial pressures, and questions are being raised as to whether they need broader financial powers to address those pressures.

KEY VIEWS

➢ Oral and written submissions to the Task Force revealed some strong preferences among municipal officials for increasing the financial powers of municipalities by undertaking the following type of renewal:
- Granting municipalities sole access and greater power over the property tax base and eliminating or reducing access by other local authorities such as school boards;
- Greater access by all municipalities to tax tools such as variable mill rates and base taxes;
- Greater autonomy in determining property sub-classes and tax exemptions;
- Less restrictions on municipal borrowing, operating deficits and use of capital reserves;
- Greater flexibility in the forms and processes regarding financial audits and accounting records;
- Greater autonomy in establishing and setting fees and utility rates, service charges, user fees and improvement levies; and
- More flexibility and power in tax enforcement and recovering service fees and fines.

- Oral and written submissions to the Task Force's public hearings were generally divided on several aspects of the financial powers of municipalities:
    - Submissions generally favoured providing municipal governments with adequate, secure, predictable and appropriate access to financial resources.
    - Submissions also favoured reducing pressures on the property tax base created by reliance on it both for municipal and educational purposes.
    - Submissions were mixed regarding providing municipal governments with extensive taxation tools, such as base taxes, variable mill rates, and special levies.
    - Many submissions were strongly opposed to removing restrictions for matters related to the borrowing levels and operating deficits of municipal governments.

KEY OPTIONS

- Some options for enhancing the current financial powers of municipalities include:
    - **Option 1:** Incorporate Principles on Financial Powers in Legislation
    - **Option 2:** Incorporate Financial Powers Within 'Spheres of Jurisdiction'
    - **Option 3:** Reduce Prescriptive Nature of Municipal Legislation
    - **Option 4:** Reduce Provincial Approvals
    - **Option 5:** Minimize Regulations for Financial Statements

Option 1

Incorporate Principles on Financial Powers in Legislation

- This option entails the incorporation of broad principles regarding the financial powers of municipal governments into any provisions in municipal legislation or municipal-provincial protocol agreements.

- Such principles would help to define the financial powers of municipalities and guide both municipal government initiatives and provincial government policies and regulations on financial matters.

- Such principles might include those contained in British Columbia's Protocol of Recognition or the International Union of Local Authorities (IULA) articles regarding the financial resources of local governments such as:
    - Matching resources to responsibilities by ensuring that legislation enables local governments to obtain the financial resources they need to meet the responsibilities and provide the level of service expected of them. (BC)
    - Local authorities shall be entitled to adequate financial resources of their own, distinct from those of other levels of government and to dispose freely of such revenue within the framework of their powers. (IULA)
    - The allocation of resources to local authorities shall be in reasonable proportion to the tasks assumed by them. (IULA)
    - Taxes which local authorities shall be entitled to levy, or of which they receive a guaranteed share, shall be of a sufficiently general, buoyant and flexible nature to enable them to keep pace with their responsibilities. (IULA)
    - The provision of grants shall not justify any undue intervention in the policies pursued by local authorities within their own jurisdiction. (IULA)

Option 2

● Incorporate Financial Powers Within 'Spheres of Jurisdiction'

- This option entails incorporating provisions in municipal legislation regarding the financial powers of municipalities either as key elements of separate 'Sphere of Jurisdiction' that could be designated as 'Jurisdiction for Financial Management', or as a set of specific financial powers within various other spheres of jurisdiction.

- The use of the 'spheres of jurisdiction' approach would help to clearly establish the financial powers of municipal governments with greater flexibility in these areas regarding:
  - Use various tools, formulas, and percentages of value;
  - Determine and set rates, base rates, and minimum rates;
  - Differentiate between types and classes or property;
  - Define what constitutes "property" (e.g., equipment); and
  - Exempt or abate, enforce and collect.

- Newfoundland's proposed Cities Act provides that "Structures – including buildings, fences and signs" and "Land Use – except those held by the province or Canada " are both 'spheres of jurisdiction' in which cities can exercise power including the power to "set different taxes, charges, levies, rates or fees for different classes…."

- The scope of municipal autonomy in these areas could still be subject to any provincial laws and regulations designed to safeguard not only the local and provincial public interest, but also individual or group rights. These could include laws and regulations regarding, for example, the following matters:
  - Setting uniform rates for certain types of property or activities that are important to the province for economic development purposes (e.g., agriculture, forestry, oil and gas, etc);
  - Establishing procedures for various taxation related matters (e.g., assessments, notices, appeals, and collection); and
  - Access to the property tax base or other revenue sources by other authorities.

Option 3

- **Reduce Prescriptive Nature of Municipal Legislation**

➢ This option entails the reduction in the prescriptive nature of municipal legislation on financial matters.

➢ Toward that end measures could be taken to remove any unnecessary prescriptive provisions regarding any facet of municipal finances that are not needed to:
  - Protect individual and group rights;
  - Protect local or provincial public interests; or
  - Ensure provincial standards or uniformity either for policy purposes such as overall tax burden and economic development or for purposes of financial accountability within the municipal sector.

➢ There are at least three key facets of municipal finances where the prescriptive nature of municipal legislation could be reduced.

- ***Minimize Requirements for Approvals***

➢ The first facet of municipal finances for which the prescriptive nature of municipal legislation could be reduced is in the requirements for provincial approvals on various financial matters. Existing requirements for provincial approval for certain financial matters could be replaced with 'limits or parameters' which if met or not exceeded would not require provincial approval. Such limits or parameters could be established for important matters such as borrowing and carrying debt.

➢ Alberta and Manitoba have used this approach to replace requirements for approval for certain key financial matters.
  - Alberta's Municipal Act allows municipalities to borrow and carry debt as long as the municipality does not exceed a published 'debt limit', in which case ministerial approval is required.
  - Manitoba's Act requires ministerial approval of municipal budgets only if a municipality creates an operating deficit, exceeds the borrowing limit set by regulation or spends reserves or surpluses beyond a set limit.

➢ The City Mayors group has suggested that this approach would both increase the flexibility and autonomy of municipal government and place accountability for such financial matters in the hands of the local electorate. The City Mayors group indicated that the publication of limits for matters such as operating deficits, borrowing, and use of reserves would enhance public awareness and accountability regarding municipal financial issues.

- ***Minimize Requirements for Financial Procedures***

➢ The second facet of municipal finances for which the prescriptive nature of municipal legislation could be reduced is in the prescribed provincial procedures. The existing legislation contains several prescriptive and restrictive provisions on procedural matters related to various financial procedures such as the collection of taxes, the use of levies and fees, and the disbursement of revenues.

- ***Minimize Regulations for Financial Statements***

➢ The third facet of municipal finances for which the prescriptive nature of municipal legislation could be reduced is the regulations pertaining to certain types of financial statements. Toward that end, existing prescriptive provisions regarding the format and forms that are to be used for budgeting, accounting, and auditing purposes could be replaced with a general and more permissive statutory provision stating that all financial statements should be prepared according to generally accepted accounting principles (GAPP) for local governments as set out by associations such as Canadian Institute of Chartered Accountants.

➢ Several provinces and territories such as British Columbia, Manitoba, Ontario, and the Northwest Territories include or are considering including such a provision on the use of 'generally accepted accounting principles' in their legislation.

➢ The provincial government's need to ensure that it has standardized municipal financial data that it can use for its purposes could be met by including a requirement in legislation for municipalities to provide it with reports using the formats or forms that are specified by the Minister. Such a provision would provide the provincial government with the means to generate proper and standardized reporting, monitoring, and analysis of municipal finances that are needed not only for provincial-municipal financial relations, but also both for accountability purposes, and to safeguard the local and provincial public interest.

KEY DIRECTIONS

- **Consideration should be given to clarifying and enhancing the revenue sources and financial powers of municipal governments by introducing principles in legislation regarding these sources and powers relative to those of the provincial government and other local authorities.**

- **Consideration should be given to incorporating areas of own-source municipal revenue and the financial powers in these areas within broad spheres of municipal jurisdiction such as:**
  - **Taxation of Property;**
  - **Licenses, Fees, Service and Utility Charges;**
  - **Municipal Investments; and**
  - **Tax Enforcement and Collection.**

- **Consideration should be given to reducing the prescriptiveness of municipal legislation regarding certain financial matters such as internal accounting, management and reporting.**

- **Consideration should be given to the degree of autonomy that municipalities should have in using "generally accepted accounting principles" for internal financial accounting, bookkeeping, auditing and statement preparation, rather than accounting systems prescribed by the province.**

- **Consideration should be given to the degree of authority that the Minister should have in prescribing forms or formats of standardized reporting to the province.**

- **Consideration should be given to reducing the nature and scope of provincial approvals for matters such as borrowing, operating deficits, and the use and transfer of capital reserves and surpluses, by replacing the general requirements for approval with requirements for approval only if the specified limits are exceeded.**

KEY RATIONALE

- The Task Force's proposed directions are based on the following perspectives:
  - Municipal governments should possess the means whereby they, rather than the provincial government, determine how to raise the requisite revenues from clearly defined sources to perform their functions and fulfil their purposes.
  - Municipal finances should be derived as much as possible from municipalities' own choices regarding the nature and level of taxes, levies, and fees, rather than the provincial government's choices and limitations regarding these matters.
  - Given the responsibility that municipal governments have for raising their own revenues, they should not be unduly encumbered by provincial regulations regarding the use of their revenue sources or the management of their finances.
  - The important consideration or condition that must be factored into arrangements regarding revenue sources and powers is the same as for other issues addressed in this report; namely that such arrangements should take into account differences in the functions and capacities of municipalities.

KEY ISSUE

2. Additional Own-Source Revenue

KEY QUESTION

- *What directions should be taken in legislation regarding any additional own-source revenue of municipal governments?*

KEY FACTS

- To reiterate, Saskatchewan's current municipal legislation only provides municipalities with powers to raise their own revenues from the following revenue sources:
  - Property taxes on land, buildings, some equipment and improvements;
  - Service charges, user and utility fees for any municipal service;
  - Licenses, permits, fines and penalties; and
  - Specific miscellaneous taxes such as amusement taxes.

KEY PROBLEMS

- There is substantial agreement among members of municipal governments and municipal on the need for increased municipal revenues to meet the challenges of both rising costs and rising expectations in municipal service delivery. There is also substantial agreement among municipal officials that there is a need for more stable, secure and independent sources of municipal revenue. Indeed, some municipal officials, and particularly those from cities have indicated that they would prefer an increase in independent sources of municipal revenues rather than increased provincial grants and other transfers.

- There is less agreement regarding exactly what types of additional sources of own-source revenues might be appropriate or available to Saskatchewan municipalities to provide them with additional revenue sources and revenues.

- It is unlikely that any additional source of own-source revenue that municipal governments in Saskatchewan do not currently have would be able to replace any of the current sources, but particularly the property tax base. At most, some alternative sources may be able to provide additional revenues for reducing dependence on current sources or augmenting the total revenue base of Saskatchewan municipalities.

KEY OPTIONS

- Some options for additional "own source" municipal revenues that municipalities in other jurisdictions have access to include:
  - **Option 1:** Reduce Pressure on Municipal Property Tax Base
  - **Option 2:** Alternative Applications of Property Taxes
  - **Option 3:** Expanded Use of Existing Revenue Generating Tools
  - **Option 4**: New and Special Purpose Municipal Taxes

Option 1

Reduce Pressure on Municipal Property Tax Base

- This option would entail an increase in 'tax room' on the property tax base for municipal governments through a corresponding decrease in the tax room needed by school boards.

- There are several different models for funding education either through the property tax base or other sources, in other provinces and territories in Canada.

    - In Alberta, the education portion of property taxes is levied through a province-wide mill rate on residential, non-residential and non-agricultural property. It is collected by municipalities and combined with about the same amount of money from the province's general revenues. It is used to fund both the public and separate school systems.

    - In British Columbia, the education portion of property taxes on residential and non-residential property is set by the lieutenant governor in council. The taxes are collected by municipalities, forwarded to the province, and represent about 30% of the funding for education. Additional school taxes on property may be approved by local school board referendum.

    - In New Brunswick, the province assumes full responsibility for all costs of public and secondary education and for the location, construction and financing of school buildings.

    - In Nova Scotia, public education is financed from the general revenues of both the province and municipalities. Each school board is given a general formula grant based on number of students. This grant is paid both by the province and the municipal councils within a school district.

    - In Ontario, the province sets mill rates for education purposes that are collected municipally and remitted to school boards. School boards no longer have direct access to property tax base.

    - In Prince Edward Island, the province uses a uniform provincial property tax to provide funding for education. The Province assumed this role in 1971 and provides equalized education grants to school districts. There are provisions for individual school board administrative units to fund additional or extra programming though local levies within the district.

    - In Quebec, the province assumed authority for financing all school boards in 1980, when it abolished the taxes levied by individual school boards. Since 1990, however, the responsibility for financing expenditures relating to equipment has been transferred back to school boards.

- In the Northwest Territories, both public and separate school systems receive 75% of their approved operational costs from the Ministry of Education with the balance coming from local taxes on property within the respective school districts. Capital facilities are funded 100% by the ministry. The Northwest Territories levies a nominal provincial school tax on property, but these funds go to general or consolidated revenues and are not directly assigned to education.

Option 2

Alternative Applications of Property Taxes

- The application of property taxes and the definition of what constitutes real property vary from province to province in Canada. In Saskatchewan, machinery, fixtures and equipment are subject to property taxes only if they provide services to buildings. Other provinces have different definitions:
  - In Manitoba, Ontario, Nova Scotia, Quebec, Newfoundland and the Territories, all machinery and equipment that are affixed to property are subject to assessment and taxation.
  - In Quebec, taxable property also includes immovable items such as wharves, machinery foundations, handling systems and chimneys.
  - In Nova Scotia, taxable property also includes trees, bushes, shrubs, excavations and underground improvements, minerals, etc.

- Other variations in the application of property taxes include:
  - Variations in the assessed values of land and buildings using percentages of value, replacement cost vs. market value; and
  - Variations in the tax treatment or exemption of certain properties and entities such as schools, churches, public properties, charitable organizations.

- There are also alternatives to the market value system of assessment including:
  - Site Value Assessment based on a property's capacity to serve a particular use rather than its current use; and
  - Unit Assessment based on the size of land and buildings multiplied by an assessment rate per square metre, rather than an assessment of market value.

- The options outlined above would require further study and analyses regarding their social and economic impacts on residents and ratepayers, their administrative applicability in the Saskatchewan context, and their merit in increasing or enhancing municipal revenues.

Option 3

• Expanded Use of Existing Revenue-Generating Tools

- This option would entail an expanded use of existing revenue generating tools that municipal governments have at their disposal.

- Saskatchewan's municipal governments currently have broad authority to set and charge fees for any municipal service. There are several existing revenue-generating tools that could be candidates for expanded application in generating more revenues for municipal governments. This includes, for example, licenses, permits, concession fees, and user fees. Some examples of expanding the application of these fees and charges include:
  - Charges to non-municipal utilities and other entities for access to municipal rights of way;
  - User fees for solid waste collection, street and road use tolls (Ontario and Quebec);
  - Vehicle licensing fees (Quebec and British Columbia);
  - Emergency services charged to insurance companies for road accidents, fire fighting, and policing special events. (Ontario);
  - Administrative charges for delivering programs of senior levels of government (American counties); and
  - Establishing for-profit enterprises where in the public interest and non-competitive (Yukon).

- There are also alternative methods of applying and calculating such charges that could be considered, including:
  - Flat rate charges;
  - Charges based on measures of volume used;
  - Charges based on property assessment; and
  - Cost averaging, full cost pricing, peak and demand pricing, competitive pricing, and opportunity cost pricing.

- Another revenue-generating tool that municipalities could consider using for their purposes is for profit enterprises. Municipal governments could engage in ventures that would provide them with revenues other than through taxes, levies, and fees.

- All of the options listed above would require further study and analyses regarding their social and economic impacts on residents and ratepayers, their administrative applicability in the Saskatchewan context and their merit in increasing or enhancing municipal revenues.

Option 4

New and Special Purpose Municipal Taxes

- Municipalities in several jurisdictions have access to areas of municipal taxation to which municipalities in Saskatchewan currently do not have access.

    - Land Transfer Taxes: Municipal governments in both Nova Scotia and Quebec can apply transfer taxes on the sale of properties. These range from .3% to 1% of the value of the transferred property and attempt to capture a percentage of the increase in property value that may not always be reflected in the assessed values of properties.

    - Hotel and Motel Occupancy Tax: Several American cities and counties have implemented, and some provinces allow their municipalities to implement hotel and motel occupancy taxes that attempt to capture the use of municipal services by non-resident tourists through a tax on hotel rooms.

    - Special Purpose Taxes: Alberta's Municipal Act allows municipalities to levy special purpose taxes for several designated purposes including: health care recruitment, fire protection, recreational services, providing water supply for residents of a hamlet, and drainage ditches. These special tax bylaws must be approved annually, and all revenues raised must be applied to the specific purpose in the bylaw, and the expenditure of any excess revenues for any purpose generated from that bylaw must be advertised to the public.

- The above options would require further study and analyses regarding their social and economic impacts on residents and ratepayers, their administrative applicability in the Saskatchewan context, and their merit in increasing or enhancing municipal revenues.

KEY DIRECTIONS

- **Consideration should be given to exploring all possible options for expanding the 'own-source' revenues of municipal governments including any or all of the following:**
    - **Alternative applications of property taxes;**
    - **Expanded application of user fees, licenses, permits, administrative charges and for profit enterprises; and**
    - **New special purpose municipal taxes.**

- **Consideration should b given to the merits of adopting various measures for increasing the 'tax room' in the property tax base for municipal governments.**

KEY RATIONALE

- The exploration of opportunities and options for additional own-source municipal revenues has the potential to provide municipal governments with the following:
    - Greater financial independence and stability by replacing provincial grants and transfers with independent and alternative sources of municipal revenue.
    - Reduce or minimize the pressures on the property tax base created as a result of it being the principal source of taxation revenue both for municipalities and educational authorities.

KEY ISSUE

3. Provincial Grants and Transfers

KEY QUESTION

➢ *What directions should be taken regarding the system of provincial grants and transfers to municipal governments in Saskatchewan?*

KEY FACTS

➢ The current system of provincial grants and transfers involves a complex variety of different and specific grants and transfers consisting of a combination of all of the following:

- Unconditional grants with no specific purposes attached;
- Conditional grants for specific purposes such as infrastructure, policing;
- Per capita grants and Matching grants;
- Revenue sharing grants;
- Grants in lieu of property taxes on provincial property.

KEY PROBLEMS

- Provincial grants and transfers are a perennial source of debate between municipal and provincial governments. Debates revolve around both the level of grants and transfers and the degree of certainty of such grants and transfers.

KEY VIEWS

➢ Those who made oral and written submissions during the Task Force's public consultations suggested that the provincial-municipal revenue-sharing system needs to be improved:

- Most submissions and participants indicated that they wanted to see the amount of revenues being shared increased substantially.
- Some, however, indicated that in light of the limited amount of revenues that were being shared, serious consideration should be given to eliminating the revenue-sharing system.
- Many indicated that the current system of grants and transfers suffers from:
  - Insufficient stability and predictability in funding from year to year;
  - Inadequate formulas (e.g., per capita) for meeting revenue needs of small and large municipalities for infrastructure replacement, capital works, policing, etc.
  - Inadequate redistribution and return of resources and revenues taken out of communities (i.e., though sales, fuel and income taxes)
  - Insufficient flexibility and local say in how dollars can be spent.

➢ The oral and written submissions also revealed that there is considerable interest among municipal officials and municipal associations on the :

- Increased transfer and revenue sharing from all sources – PST, VLT's, fuel taxes, natural resources;
- Designating the sharing of specific revenues (e.g., fuel taxes) for specific municipal purposes (e.g., roads);
- Payment of full property tax on all provincial government properties;
- More equitable provincial funding of policing, library and other services among different forms, sizes and types of municipalities;
- Modification of per capita and other grant formulas to accommodate same or higher costs for smaller and northern municipalities;

KEY OPTIONS

➢ Some options for altering and improving the system of provincial grants and transfers include:

- **Option 1:** Direct Access to Provincial Tax Bases
- **Option 2:** Provincial-Municipal Revenue Sharing
- **Option 3**: Performance Based Provincial Funding

Option 1

Direct Access to Provincial Tax Bases

- This option would provide for direct access to major provincial tax and revenue bases for municipal purposes either by all municipalities, certain types of municipalities, or individual municipalities.
- Examples of direct access to certain tax bases from other jurisdictions include:
  - Municipalities in some American states such as Pennsylvania can impose local income taxes. In the state of New York only cities with populations over one million can impose a local income tax.
  - Municipalities in California and other states have access to the sales tax, and some states and provinces allow municipalities to "piggy back" municipal taxes on provincial sales taxes for restaurants, hotels, events, etc.
  - Public transit in both Montreal and Vancouver is partially funded through a portion of gasoline taxes.
- The options above would require further study regarding the legislative means to provide either uniform or unequal access to certain revenue bases, restrictions on such access, and the safeguarding of provincial jurisdiction over shared tax and revenue bases.

Option 2

Provincial-Municipal Revenue Sharing

- This option would entail the designation in legislation of the provincial revenues from various bases that are to be shared with municipal governments, the percentage of these bases that are to be shared, and how these transfers are to be allocated and distributed to municipalities.
- Examples from other jurisdictions include:
  - Manitoba's provincial government allocates 2% of personal income tax and 1% of corporate income tax for distribution to municipalities.
  - Manitoba allocates a designated percentage of VLT revenues back to the originating local government from where the revenues were derived.
  - Legislation in BC provides for the province to share retail sales tax revenues with municipalities.
  - Germany distributes 15% of national income and wage tax revenues back to the originating local government where the taxpayers reside.
  - Several American states designate portions of their gas taxes ranging from 1.5 cents to 10 cents a gallon to local municipalities. The state of New York collects 10 cents per gallon from all petroleum products refined, sold and imported into the state.

Option 3

- **Performance Based Provincial Funding**

➢ This option would entail the allocation of some provincial grants and transfers to municipal government based on the functions that municipalities actually perform.

➢ For example, fuel tax revenues might be allocated only to municipalities performing road and highway maintenance functions, and lottery revenues might only be provided to those municipalities performing cultural and recreational functions. In both cases the precise amount that would be transferred to various municipalities could be based on some formula that takes into account their respective roles and responsibilities for that particular function.

➢ Examples from other jurisdictions include:
  - Provincial VLT revenues in Manitoba that are allocated to municipal governments are to be earmarked for economic development purposes;
  - Fuel tax revenues shared with municipalities in Quebec, British Columbia and many American states are designated for public transportation purposes; and
  - Hotel and amusement tax revenues are designated for tourism purposes in some American states.

➢ The options above would require further study, discussions and negotiations regarding the particular functions for which this type of funding is suitable, measures of what constitutes the level of "performance" of a particular function, and how funds should be allocated (e.g., per capita, percentage of actual costs, etc.).

KEY DIRECTIONS

➢ **Consideration should be given to exploring improvements to the system of provincial grants and transfers by focusing on the following:**
  - **Direct access to major provincial tax bases;**
  - **Provincial-municipal revenue sharing; and**
  - **Performance based funding.**

KEY RATIONALE

➢ The proposed directions would help achieve the following:
  - Improve the relationship between the financial needs and the financial resources of municipal governments;
  - Clarify and make explicit the municipal-provincial financial relationship, consistent with the clarification of the municipal-provincial relationship regarding status, functions, powers and autonomy; and
  - Improve the functional and financial accountability within each level of government by matching and dedicating certain financial transfers to the performance of certain functions.

VII. MUNICIPAL GOVERNANCE

Introduction

KEY FOCUS

- This section of the report addresses four key issues regarding Municipal Governance:
  1. **General Statutory Provisions on Municipal Governance**
  2. **Municipal Elections**
  3. **Municipal Ombudsman Office(s)**
  4. **Municipal Board**

- The principal focus of this section is on whether the current municipal legislation contains adequate provisions and principles regarding key governance matters such as:
  - Public participation in municipal governance;
  - Municipal elections; and
  - Appeal and approval mechanisms for municipalities and the public.

KEY IMPORTANCE

- The review and renewal of the statutory provisions and the practices of municipal governance are important for several reasons including:
  - The perception and belief that current municipal legislation suffers from the lack of provisions or principles regarding certain key aspects of municipal governance and public participation; and
  - The likelihood that public participation and accountability are likely to increase in importance in response to the calls for greater municipal power and autonomy.

KEY THEMES

- The major theme of this section is that consideration should be given reviewing statutory provisions regarding municipal governance as a means of enhancing democratic and accountable governance. Toward that end, this section of the report suggests that special attention should be devoted to incorporating the following into municipal statutes:
  - Explicit principles regarding democratic governance;
  - Explicit provisions regarding the general roles and responsibilities of municipal officials;
  - Explicit provisions regarding public participation, access, and accountability;
  - Modified provisions regarding elections processes and eligibility criteria;
  - Modified provisions regarding closed and open council meetings;
  - Explicit provisions regarding 'counter-petitions;
  - Provisions for creating a 'Municipal Ombudsman' office; and
  - Modified provisions on the role and the process for the selection of the Municipal Board.

KEY ISSUE

1. General Statutory Provisions on Municipal Governance

KEY QUESTION

- *Are the provisions regarding municipal governance appropriate for ensuring democratic, accessible, accountable, and ethical municipal governance?*

KEY FACTS

- The majority of the provisions in municipal legislation are devoted to municipal governance and management. Such provisions prescribe not only what elected and appointed municipal officials may or must do and how they may or must do it, but also how the public may or must be involved in municipal governance.

KEY PROBLEMS

- There are no explicit provisions or principles guiding municipal governance and public participation in current municipal legislation. In other words, the legislation does not explicitly list principles such as democratic, accessible, accountable, or ethical governance.

- The need for such principles becomes increasingly important in light of two potential developments in the municipal sector stemming from demands of municipal governments and some of their ratepayers and residents:

  - The powers of municipal governments could be enhanced or broadened both through a conferral of additional powers and the elimination of existing statutory limitations on municipal governments; and

  - The autonomy of municipal governments could be enhanced as the provincial government's role in regulating, approving, and advising municipal governments is reduced.

KEY VIEWS

- Those who made oral and written submissions to the Task Force had several concerns regarding municipal governance:
  - Some indicated that municipal governments should be more responsive to the needs and preferences of residents and ratepayers;
  - Some indicated that municipal councils are not always speaking on behalf of their residents, nor are they always listening to what citizens and advisory boards are saying;
  - Some indicated that there is a need for more public consultation processes to ensure that ratepayers and residents are not only informed of various municipal initiatives, but that they also have the opportunity to question elected and appointed officials on various options; and
  - Some indicated that there must be more opportunities for ratepayers and residents to indicate their preferences and choices on various issues through direct democracy mechanisms such as plebiscites and referenda.

KEY OPTIONS

- Some options for safeguarding democratic and accountable governance in municipal legislation include:
  - **Option 1:** Enhance Provisions on Municipal Governance
  - **Option 2:** Enhance Provisions on Roles and Responsibilities of Elected Municipal Officials
  - **Option 3:** Enhance Statutory Provisions on Public Participation, Access, and Accountability
  - **Option 4:** Consolidate Provisions on Public Participation, Access, and Accountability

Option 1

Enhance Provisions on Municipal Governance

- This option would see the incorporation of broad principles regarding municipal governance both into municipal legislation and any municipal-provincial protocols that might be produced.

- Such principles could be incorporated into provisions regarding municipal status and/or municipal purpose that have been discussed in previous sections of this report, or included in a separate section devoted exclusively to general governance principles.

- Such principles would be useful guides for elected and appointed municipal officials in choosing appropriate governance practices. They could also provide some benchmarks for ratepayers and residents to use in evaluating the governance practices of their elected and appointed municipal officials.

- Municipal legislation in British Columbia, Nova Scotia and the Yukon all explicitly state that municipal governments are "responsible and accountable" to ratepayers and residents. Other key principles contained in the legislation of many provinces and territories relate to the fundamental purpose of municipal governments, namely 'good government' and good 'stewardship of public assets".

Option 2

Enhance Provisions on Roles and Responsibilities of Elected Municipal Officials

- This option would see the enhancement of provisions in municipal legislation regarding both the broad roles and responsibilities of all elected municipal officials for the overall governance and management of the municipality.

- Current provisions in Saskatchewan's municipal statutes refer only to the responsibilities of the heads of council (mayors and reeves) and in their absence, deputy mayors and deputy reeves.

- These responsibilities differ for urban/northern municipalities and rural municipalities. Whereas he duties of reeves in rural municipalities listed in the municipal statute include only presiding at every meeting of the council, preserving order, and enforcing rules of procedure. The duties of mayors in urban municipalities include:
  - Being vigilant and active in causing the laws governing the municipality to be executed and obeyed;
  - Overseeing conduct of all municipal employees;
  - Cause negligence, carelessness and violation of duty to be punished;
  - Communicate to council all information and recommend any measures regarding improvement to the finances and welfare of the municipality; and
  - Preside over all meetings of council, preserve order and enforce rules.

- Municipal renewal initiatives in several other provinces and territories including Alberta, Manitoba, Northwest Territories and the Yukon have incorporated more relevant and expanded descriptions of the broader governance and management responsibilities that apply to councils, mayors, and councillors. For example, the responsibilities of councils in these jurisdictions include:
  - Developing and evaluating policies and programs;
  - Exercising the powers assigned to them in legislation; and
  - Performing the duties and functions assigned to them in legislation.

- In addition to the above, the statutes of Manitoba, Northwest Territories, and the Yukon also list the broad responsibilities and duties of councillors. These include:
  - Consider the well being and interests of the municipality and bring to council's attention anything that promotes the well being of the municipality;
  - Participate in developing and evaluating municipal policies, services and programs;
  - Participate in meetings of council, council committees and other bodies;
  - Obtain information about municipal operations from staff; and
  - Keep in confidence matters discussed at meetings closed to the public.

- The statutes of Manitoba, Northwest Territories and the Yukon also describe the duties of the mayor or head of council in addition to those as a councillor. These include providing leadership and direction to council and presiding at council meetings.

- The Northwest Territories is contemplating the inclusion of provisions in the municipal act that would allow municipal governments to adopt Codes of Ethics designed to increase council members' accountability for their actions to residents and fellow council members.

Option 3 Enhance Provisions on Public Participation, Access and Accountability

- This option would see an enhancement of the statutory provisions devoted to various mechanisms for public participation, public access, and public accountability.
- Despite some minor differences between them for some matters, both the rural and urban municipal acts provide several means of public participation, access and accountability.
  - First, all municipal council meetings must be open to the public, although committees of council can choose to meet in private on any matter except to pass bylaws.
  - Second, all municipal councils can submit any proposed bylaw to a vote. However, whereas councils of urban municipalities must submit such a proposed bylaw to all electors, councils of rural municipalities must only submit it to a vote to 'burgesses' or property owners.
  - Third, whereas electors in urban municipalities can petition and force a vote on a bylaw that if approved is binding on municipal councils, there are no such provisions for electors in rural municipalities.
  - Fourth, electors can petition councils to hold public meetings to discuss any municipal matters. However, whereas in urban municipalities 5% of the population must sign the petition and the clerk has final determination of a petition's sufficiency, in rural municipalities not less than 20 voters must sign the petition.
  - Fifth, both the various municipal acts and *The Local Authority Freedom of Information and Protection of Privacy Act* contain provisions regarding access to municipal documents and information.
- Some improvements to the public participation, access, and accountability mechanisms that other provinces and territories have either implemented or are considering include those identified below:

  - **Restrictions on In-Camera Council and Committee Meetings**: Municipal legislation in provinces including Alberta, British Columbia, Manitoba, Nova Scotia, and Ontario explicitly lists and limits the matters for which council and council committee meetings can be closed to the public. Generally these limitations relate to standard and common protection of privacy guidelines over matters regarding personal information, labour relations, law enforcement, and litigation, but in the municipal context are expanded to include commercial information, land dealings, municipal safety and any matters of a preliminary nature which could be adversely affected if discussed publicly.

  - **Council Meetings Through Electronic Means:** Several provinces and territories including BC, Manitoba, Yukon, Quebec, and the Northwest Territories authorize councils to use electronic means to hold meetings via teleconferencing or video conferencing as long as councillors can hear and speak to each other and the public can hear.

- **Requirement for Annual Meetings:** A few provinces have incorporated provisions regarding the requirement for municipal councils to hold annual public meetings. BC enacted this requirement effective January 1, 2000 requiring municipalities to hold an annual meeting through either a regular council meeting or a special meeting prior to June 30 of each year to discuss the financial statements and council remuneration of the previous year and any other matters that the council deems appropriate. PEI has similar provisions in its Municipal Act regarding certain types of quasi-municipalities (e.g., villages & communities).

- **Binding Public Votes (Plebiscites and Referenda):** Some provinces and territories such as Alberta, Ontario and the Yukon have or are considering provisions that bind councils to the results of certain types of public votes. If public votes approve a proposed measure, councils must implement it. Proposed legislation in Ontario prescribes that in order for a vote to be binding, it must be supported by 50%+1 of voters and there must be a minimum of 50% voter turnout.

- **Ratepayer Approvals:** Municipal legislation in some provinces and territories such as Prince Edward Island, Yukon and the Northwest Territories require ratepayer or voter approvals for matters such as local improvements (NWT), long term borrowing (Yukon) and borrowing for capital expenditures in some types of municipalities (PEI).

- **Counter-Petitions:** A counter-petition is a petition by voters against a particular council action or bylaw. British Columbia's legislation formally provides for a counter-petition process as a means by which ratepayers and residents can register their approval or disapproval on various matters such as municipal borrowing, alignment of functions to regional districts, local improvements, use of reserves, disposition of assets. In such matters, councils are required to advertise their intentions and electors are invited to petition against the action. If a specified percentage of the electors are against the action, council cannot proceed unless approval is received through a formal referendum.

Option 4

Consolidate Provisions on Public Participation, Access and Accountability

- This option would see the consolidation of both existing and new provisions regarding public participation, public access, and public accountability measures and mechanisms into one section or part of municipal legislation. This option would give such provisions greater visibility.

- Provisions regarding public participation, access, and accountability are scattered not only through various core municipal statutes, but also in other statutes devoted to municipal elections, and freedom of information and/or protection of privacy in the municipal sector.

- Such provisions and mechanisms include: municipal elections, council meetings, other public meetings, petitions and plebiscites, notice of certain regulations and bylaws, and access to municipal documents.

- Alberta's *Municipal Government Act* and Newfoundland's proposed *'Cities Act'* have both consolidated various provisions regarding mechanisms for public participation in one section titled 'Public Participation' that include provisions regarding:
  - Municipal requirements for general local elections and by-elections;
  - Council plebiscites and public hearings, petitions to council;
  - Public attendance at council meetings, and circumstances in which councils can 'close' meeting to the public;
  - Prior notice required before adopting, amending, or repealing regulations;
  - Public inspection and access to municipal documents and information; and
  - Requirements for councils to prepare an Annual Report.

KEY DIRECTIONS

- **Consideration should be given to including the following in municipal legislation:**
  - **Principles related to democratic and accountable municipal governance;**
  - **Provisions regarding the broad roles and responsibilities of elected municipal officials; and**
  - **Provisions regarding public participation, public access and public accountability that are given higher profile and consolidated in one section of municipal legislation to improve public awareness regarding the roles and rights of ratepayers and residents in municipal governance.**

- **Consideration should be given to enhancing public participation through the following types of means:**
  - **Explicit limitations on in-camera and closed council meetings;**
  - **Council meetings via electronic means;**
  - **Requirement for annual public meetings;**
  - **Binding municipal questions, plebiscites and ratepayer approvals regarding certain matters; and**
  - **'Counter-petitions' as a means of gauging public support or opposition in place of other restrictions and requirements for approval.**

KEY RATIONALE

- The proposed directions would help encourage and promote responsible, accountable, accessible and ethical municipal governance through the following:
  - Increasing awareness and thinking about various key principles of municipal governance;
  - Clarifying the broad roles and responsibilities of elected municipal officials in relation to the above key principles; and
  - Providing measures and benchmarks of accountability not only for ratepayers and residents, but also for elected and appointed municipal officials.

- The above directions would also encourage and promote greater public participation through the following:
  - Simplifying and consolidating the relevant provisions regarding public participation in one easily referenced section of municipal legislation.
  - Improving awareness among residents, ratepayers and the general public of the opportunities for public participation in municipal governance.

KEY ISSUE

2. Municipal Elections

- This sub-section focuses on three key issues regarding the municipal election system in Saskatchewan:
  - **Municipal Election Legislation**
  - **Municipal Election Processes**
  - **Eligibility Criteria for Mayors, Reeves and Councillors**

KEY QUESTIONS

- *Is municipal election legislation in need of renewal?*
- *Is renewal required to municipal election processes?*
- *Is renewal required to the eligibility criteria for municipal mayors, reeves and councillors?*

KEY FACTS

- Legislation on municipal elections contains several anomalies, including the following:
  - Election provisions and procedures for urban and northern municipalities are contained in *The Local Government Elections Act,* while those for rural municipalities form part of *The Rural Municipality Act.*
  - Municipal elections in urban and northern municipalities occur every three years, whereas elections for rural councils are held annually with half of the councillors standing for reelection each year.
  - Dates for municipal elections can vary among urban, northern and rural municipalities and between resort villages and other urban municipalities.
  - Wards/divisions within rural municipalities are generally based on equality of area, while those in urban municipalities are generally based on equality of population with limitations on the population variation among wards.
  - Non-resident 'burgess' or property owners/renters and their spouses are eligible voters in rural municipalities and resort villages but not in larger urban municipalities.

- The basic eligibility criteria for candidacy in municipal elections stipulate are age (i.e., 18), Canadian citizenship, Saskatchewan residency requirements, and residency or ownership requirements in the municipality that the person wishes to be a candidate. The election legislation disqualifies judges, employees, auditors, and solicitors of the municipality from being nominated for, elected to, or holding office on, a municipal council.

- Specific issues regarding the eligibility and qualifications of elected officials include:
  - Inconsistency and confusion between provisions in *The Rural Municipality Act* and *The Local Government Elections Act*, regarding the eligibility of persons having direct or indirect contracts with municipalities.
  - Lack of provisions disqualifying persons having tax arrears from running for and sitting on council.
  - Lack of provisions preventing elected provincial MLA's from holding municipal office.
  - Reference to a non-resident, non-owner 'spouse' being eligible to hold office in a resort village, by virtue of their marriage to an resident or owner.

- Municipal election legislation and processes in other jurisdictions across Canada feature several significant differences from those in Saskatchewan including:
    - Consolidated election statutes for all types of municipalities and local authorities in the province including municipal, health, education, and other authorities (Alberta, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia);
    - Standardized terms of office and election dates for all types of municipalities (Alberta, Manitoba);
    - Four year terms of office (Manitoba, Newfoundland, Quebec); and
    - Common and coterminous municipal, provincial, and federal electoral boundaries (New Brunswick).

- Eligibility provisions for elected municipal officials in other jurisdictions also have some significant differences from those in Saskatchewan including:
    - Disqualification of provincial MLA's from serving on municipal councils (Alberta, Manitoba, Nova Scotia, Ontario);
    - Disqualification of persons in financial arrears with municipality (Alberta);
    - Disqualification of council members of another municipality (Nova Scotia);
    - No minimum residency requirements in municipality (BC); and
    - Provisions for non-voting, youth (under 18) members of council (Manitoba, NWT).

KEY VIEWS

- Many oral and written submissions to the Task Force suggested that the municipal election system should be improved. Most concerns were not with the integrity of the system, but with its ability to foster interest and participation. Problems identified included voter apathy, lack of candidates, the disenfranchisement of seasonal residents, insufficient notification of elections. Generally people indicated they want to see changes that would increase both the number of candidates and the level of voter turnout. Toward that end some participants advocated measures such as:
    - More concurrency among municipal, health, and education elections;
    - More access to voting through innovative means such as the Internet;
    - Caps on election expenses by candidates.

- Oral and written submissions to the Task Force contained mixed reactions to the proposal that municipal elections should coincide with the elections of education boards and health boards:
    - Those supporting the proposed direction believe it might save money and improve voter turnout.
    - Those opposing this direction believe that it may confuse the electorate and complicate the voting process.

- The Task Force received many submissions from residents of rural municipalities expressing a preference for the continuation of the current practice of staggered two year terms with elections being held annually for half of the councillors. Support for the staggered terms was based on the view that such a system facilitates continuity in the work of councils and ongoing accountability to the electorate.

KEY OPTIONS

- **Options Regarding Election Legislation**
  - Option 1: Retain Current Election Legislation for all Municipalities
  - Option 2: Integrate Election Legislation for all Municipalities into One Act
- **Options Regarding Election Processes**
  - Option 1: Different Election Processes, Terms of Office, Dates of Elections, and Qualifications of Voters for the Different Types of Municipalities
  - Option 3: Uniform Election Processes, Terms of Office, Dates of Elections, and Qualifications of Voters for the Different Types of Municipalities
- **Options Regarding Eligibility Criteria for Mayors, Reeves, and Councillors**
  - Option 1: Retain Current Eligibility Provisions
  - Option 2: Modification of Existing Eligibility Provisions
  - Option 3: Incorporation of New and Additional Eligibility Provisions

KEY DIRECTIONS

- **Municipal and provincial governments should explore options for improving the municipal election system in Saskatchewan to increase public participation in voting and for contesting elections.**
- **Consideration should be given to the relative merits of all of the following:**
  - **One statute containing all provisions regarding municipal government and other local elections;**
  - **Consolidated and standardized election processes, procedures, and provisions regarding qualifications of voters;**
  - **Standardized terms of office and election dates for all types of municipalities;**
  - **Concurrent elections for municipal, health and education authorities; and**
  - **Changes to municipal legislation regarding the eligibility and qualifications of elected municipal officials.**

KEY RATIONALE

- The Task Force believes the proposed directions should help to address a number of problems evident in the system of municipal elections:
  - Voter apathy and confusion;
  - Low turnout in all types of local elections (school, health, municipal);
  - Substantial confusion regarding election processes in different types of municipalities; and
  - Limited number of candidates.

KEY ISSUE

3. Municipal Ombudsman Office(s)

KEY QUESTIONS

- *Should one or more offices of Municipal Ombudsman be created?*
- *If so, who should perform the functions of Municipal Ombudsman, who should appoint a Municipal Ombudsman, and who should fund a Municipal Ombudsman?*

KEY FACTS

- An Ombudsman is an independent person appointed to receive, to investigate, and to attempt to resolve complaints or appeals from ratepayers and residents in a given jurisdiction regarding various administrative matters.
- An Ombudsman has the powers to discover the facts of a case and assist in finding an appropriate resolution. An Ombudsman is not a substitute either for other governmental agencies or for the courts. Instead, an Ombudsman constitutes an alternative and possibly more accessible and less costly appeal mechanism for ratepayers and residents.
- The Provincial Ombudsman in Saskatchewan receives numerous calls from individuals seeking assistance with problems that they have encountered in the municipal sector. Currently, Saskatchewan's Provincial Ombudsman is not authorized to investigate matters stemming from the work of municipal governments.
- Although the Saskatchewan Municipal Board (SMB) provides an avenue for ratepayer appeals in a limited number of areas, there are many aspects of municipal governance and management for which they have no jurisdiction to receive, investigate, or resolve complains or appeals from ratepayers or residents. The SMB is a quasi-judicial tribunal that was created in part to hear appeals relating to municipal planning and development matters, fire prevention orders, property maintenance, and municipal assessments. That function is generally performed by the following appeal committees of the Saskatchewan Municipal Board:
    - The Planning Committee hears planning and development appeals arising from municipal development appeal boards or subdivision approving agency;
    - The Assessment Appeals Committee hears appeals relating to assessed values of real property, local improvements, the exemption of property from taxation and conservation and development authorities;
    - The Fire Prevention Committee hears appeals resulting from orders and certificates issued by the Fire Commissioner;
    - The Property Maintenance Appeals Committee hears appeals from owners of property deemed unsightly by their respective municipalities; and
    - The Condominium Property Act Apportionment Committee hears assessment appeals pursuant to the Condominium Property Act, 1993.

KEY VIEWS

- The joint submission to the Task Force by SARM and RMAA recommended that consideration should be given to creating some type of 'Ratepayer Ombudsman' to deal with appeals from ratepayers.
- Oral and written submissions to the Task Force on the issue of Municipal Ombudsman reveal a lack of consensus on this issue.
- Those who supported the appointment of such an officer indicated that it would be useful to have an impartial person that could investigate complaints or appeals, and mediate between ratepayers and municipal officials
- Those who opposed the appointment of such an officer indicated that it would create what they deem to be additional bureaucracy of limited value.

KEY OPTIONS

- There are two main sets of options regarding the establishment of a Municipal Ombudsman:
  - **Options for the Creation of an Office of Municipal Ombudsman**
  - **Options for the Appointment of Municipal Ombudsman**

(a) Options for Creation of an Office of Municipal Ombudsman

- There are four basic options regarding the creation of, or who should perform the functions of, a Municipal Ombudsman.
  - **Option 1: Provincial Ombudsman to serve as Municipal Ombudsman.**
  - **Option 2: Other Agencies to Serve As or House Municipal Ombudsman**
  - **Option 3: Separate Municipal Ombudsman for all Municipalities.**
  - **Option 4: Municipal Ombudsman for Individual Municipalities.**

Option 1

Provincial Ombudsman to serve as Municipal Ombudsman

- This option would see the jurisdictional authority of the current Provincial Ombudsman extended to include municipal governments.
- British Columbia, Manitoba, New Brunswick and Nova Scotia have broadened the role of their provincial Ombudsman to investigate and respond to administrative complaints related to their respective municipal governments.
- This option would build on the established procedures and credibility of the current Provincial Ombudsman office and ensure that the office is independent of either provincial or municipal government interference.
- This option would require further exploration regarding the additional capacity, both in financial and human resources that would be required by the Provincial Ombudsman's office to handle inquiries related to local governments.

Option 2

Other Agencies to Serve As or House Municipal Ombudsman

- This option would see the functions of a Municipal Ombudsman performed by an existing agency through a corresponding increase in the jurisdictional authority of such an agency.

- One example of such an agency would be the Saskatchewan Municipal Board. Currently the Board has a several specific committees to deal with approval of municipal financial matters, ratepayer appeals related to property and assessment matters, and committees to deal with inter-municipal disputes regarding boundaries. A new or separate committee could be established within the Municipal Board framework to perform a municipal Ombudsman role.

- In the joint submission of SARM and the RMAA to the Task Force they indicated that their preferred choice to perform a 'Ratepayer Ombudsman' role was the Rural Board of Examiners, which is composed of appointees from SARM, RMAA and the Province. In their joint brief those associations indicated that the Rural Board or Examiners would have the experience, practical knowledge, and sensitivity to act as an Ombudsman for rural local governance matters.

Option 3

Create Municipal Ombudsman for All Municipalities

- This option would see the creation of a separate and stand alone office of Municipal Ombudsman with the authority to investigate, respond to, and resolve complaints from any ratepayer or resident in the province vis-à-vis any municipal government in the province.

- There are few, if any, examples in Canada of province's creating a separate Municipal Ombudsman office to handle Ombudsman functions for their municipalities. Most provinces have either expanded the authority of their provincial Ombudsman offices or enabled municipal governments to create their own individual Ombudsman offices.

Option 4

Municipal Ombudsman for Individual Municipalities

- This option would allow for individual municipal governments to create their own offices of Municipal Ombudsman through a bylaw.

- In Canada, the cities of Winnipeg and Montreal have established their own Ombudsman pursuant to provisions set out in their respective acts of incorporation. Several American and European cities have Ombudsman including Detroit, Portland, Anchorage, Paris, Zurich and Berlin.

(b) Options Regarding Appointment of Municipal Ombudsman

- There are three basic options for appointing a Municipal Ombudsman:
  - **Option 1: Provincial Appointment**
  - **Option 2: Municipal Appointment**
  - **Option 3: Joint Provincial-Municipal Appointment**

Option 1

Provincial Appointment

- Under this option a Municipal Ombudsman could be appointed either by the provincial government either on its own or subject to the recommendation, ratification or approval either by the provincial legislature or by a committee of the provincial legislature.

- Such a role of provincial legislatures in the appointment of municipalities is not uncommon. Indeed, the appointment of the Provincial Ombudsman in Saskatchewan is subject to the consent of the legislative assembly.

- In some other jurisdictions the appointment of the Ombudsman is subject to the decision of a special committee of the legislative assembly (e.g., British Columbia).

Option 2

Municipal Government Appointment

- Under this option the Ombudsman would be appointed in one of two ways depending on the number of municipalities served. If an Ombudsman serves only one municipality, its council makes the appointment. If an Ombudsman serves more than one municipality, the councils of all the municipalities that are served make the appointment.

- Generally it is cities that are authorized to appoint their own Ombudsman. For example, in Canada cities such as Winnipeg and Montreal have been given the authority to appoint their own Ombudsman, and in the United States some of the cities that have been given the authority to appoint their own Ombudsman include Detroit, Anchorage, and Portland.

- In such cities the Ombudsman is appointed by bylaw. The *City of Winnipeg Act* states that the city shall, by bylaw, establish the position of Ombudsman, who shall be appointed by council or retained by the city to perform the duties of the Ombudsman. Moreover, the Act states that the bylaw must provide for the following: (a) qualifications; (b) procedures for appointment; (c) salary and expenses; (d) grounds for suspension and removal; and (e) the appointment of an acting Ombudsman when the office is vacant for any reason.

Option 3

Joint Provincial-Municipal Appointment

- Under this option the Ombudsman would be appointed jointly by the provincial government or legislature and municipal representatives. One possibility would be to have the municipalities or associations of the municipalities that would be served by the Ombudsman to nominate candidates and for the provincial government or legislature to make the appointment. For this option to work the provincial and municipal governments would have to agree both on a specific appointment process, and their respective roles in funding the Office of Ombudsman.

KEY DIRECTIONS

- **Consideration should be given to the relative merits of establishing one or more offices of Municipal Ombudsman to ensure democratic municipal governance and sound municipal management in all municipal governments in the Province.**
- **Consideration should be given to the relative merits of creating an office of Municipal Ombudsman either as a stand alone office, or by expanding the jurisdictional authority and resources of the existing office of Provincial Ombudsman.**
- **Consideration should be given to the relative merits of authorizing individual municipalities to establish and resource their own Ombudsman Offices if they desire.**
- **Consideration should be given to the merits of a municipal-provincial partnership in appointing and in funding a Municipal Ombudsman.**

KEY RATIONALE

- The proposed directions for establishing an office of Municipal Ombudsman could prove beneficial not only for ratepayers and residents, but also for elected and appointed municipal officials. All o f them could benefit from having an impartial agency that would perform two key functions:
  - Reviewing appeals from ratepayers and residents regarding municipal policies, programs, and practices; and
  - Making recommendations both for resolving legitimate appeals and precluding the need for such appeals in the future by eliminating problematic elements of municipal policies, programs, or practices.

KEY ISSUE

4. The Role and Selection of the Municipal Board

KEY QUESTION

- *What directions should be taken regarding both the role of the Saskatchewan Municipal Board, and the selection of Board members?*

KEY FACTS

- The Saskatchewan Municipal Board (SMB) is a quasi-judicial body established in 1988 through the consolidation of the Saskatchewan Local Government Board, the Saskatchewan Assessment Appeals Board, the Provincial Planning Board and the Saskatchewan Municipal Boundary Commission.

- The Board was created to ensure the financial viability of municipalities and other local authorities, and to hear appeals relating to municipal planning and development, fire prevention orders and certificates, municipal boundaries and tax assessment through a number of committees.
  - The Local Government Committee advises and monitors municipalities on a variety of issues and approves capital financing, debt management, investments, utility rates and local improvements;
  - The Planning Committee hears planning and development appeals arising from municipal appeal boards or subdivision approving agencies;
  - The Assessment Appeals Committee that hears appeals relating to property assessments, local improvements, and exemptions of property from taxation.
  - The Fire Prevention Committee hears appeals resulting from orders and certificates issued by the Fire Commissioner;
  - The Municipal Boundary Committee reviews the application of boundary changes (e.g., annexations and amalgamations) that are requested by municipalities that cannot agree on the terms and conditions of such alterations or that are referred by the Minister;
  - The Property Maintenance Appeals Committee that hears appeals from owners of property deemed unsightly by their respective municipality; and
  - The Condominium Property Act Apportionment Committee hears assessment appeals relating to condominiums.

- Municipal Board members are appointed by the Lieutenant Governor in Council (Cabinet) for full or part-time terms. Full-time members may sit on the board for a period not exceeding 10 years, while a part-time member can sit on the board for no more than 3 years. Persons may also be appointed to sit on the board for a term not to exceed 6 months.

- In addition, the two municipal associations, SUMA and SARM can appoint one member each for a term of three years to deal with issues related to boundary changes, annexation and amalgamation.

- The submission of the City Mayors group recommended removing the requirement for approval of debt for capital expenditures from the Municipal Board and placing it with the local electorate through published debt limits and actual debt levels. The submission indicated that this change would increase the electorate's awareness of the amount of civic debt more than does the system of Municipal Board approvals.

- In addition, the City Mayors group recommended the establishment of inter-municipal dispute resolution mechanisms within the Municipal Board for issues other than annexation, planning and zoning, such as shared costs for recreational facilities.

- Some provinces including British Columbia, Newfoundland and New Brunswick do not have a single agency charged with the roles and responsibilities normally ascribed to a Municipal Board. In these provinces functions related to municipal finances and the appeal of assessment, planning and development decisions of councils are carried out by a variety of specific boards, commissions and authorities, the Minister and Departments of Municipal Affairs, and the provincial court system.

- The municipal boards of some provinces perform some roles that are not performed by the Saskatchewan Municipal Board such as:
  - Responsibility for approving incorporations of municipalities (Ontario);
  - Responsibility for initiating reversion/dissolution of municipalities and for approving annexation proposals (Nova Scotia);
  - Responsibility for approving local utility rate increases (Nova Scotia);
  - Inter-municipal disputes and issues assigned by the Minister (Alberta); and
  - Freedom of Information in the municipal sector (Nova Scotia).

- The composition of Municipal Boards in other provinces and territories generally involves appointment by Cabinet. The exception to this is in the Yukon, where the Municipal Board includes one member nominated by the territorial municipal association, and one member nominated by the territorial association of First Nations.

KEY OPTIONS

- **Options Regarding Role of Municipal Board**
  - Option 1: No change in roles
  - Option 2: Modification or reduction of existing roles
  - Option 3: Additional roles

- **Options Regarding Selection of Municipal Board**
  - Option 1: No change in selection process
  - Option 2: Modification of selection process

KEY DIRECTIONS

- **Consideration should be given to exploring options for enhancing the role of the Municipal Board in the following:**
  - **Inter-municipal disputes in all areas of municipal governance;**
  - **Reviewing and approving incorporation and annexation processes; and**
  - **Initiating, reviewing and approving processes for municipal reversion, conversion and dissolution.**

- **Consideration should be given to exploring options for enhancing the role of municipal governments and/or their associations in nominating members of the Municipal Board.**

KEY RATIONALE

- The proposed directions could provide the municipal sector with a Municipal Board that can perform important roles comparable to those performed by similar agencies in other provinces both in resolving disputes between municipalities and in facilitating municipal structuring and restructuring initiatives.

VIII. MUNICIPAL MANAGEMENT

Introduction

KEY FOCUS

- This section of the report focuses on two key issues:
  1. **Statutory Provisions on Municipal Management**
  2. **Management of Human Resources**

- The principal focus of this section is on two key matters:
  - Whether the current municipal legislation contains adequate provisions and principles to ensure sound public management; and
  - Whether municipal governments should have more freedom and flexibility in managing their affairs and assets, particularly their employees.

KEY IMPORTANCE

- A review and renewal of some key aspects of municipal management is important for several reasons.
  - Provisions and practices related to municipal management are likely to increase in importance in response to the calls for greater municipal power and autonomy;
  - There are contending viewpoints regarding the role of the provincial government in many areas of municipal management, particularly human resource management including the certification and qualification of municipal administrators.

KEY THEMES

- The major theme of this section is that consideration should be given to reviewing statutory provisions regarding municipal management with special attention to fostering sound management practices.

- In enhancing or improving sound public management, it is suggested that consideration be given to the following matters:
- adding explicit provisions that profile the principles of sound and ethical management;
- incorporating provisions and principles in municipal legislation that broaden the nature and scope of municipal autonomy in the management of human resources, including:
  - Modifying statutory positions and duties of municipal employees;
  - Removing legislative requirements for the certification of municipal employees; and
  - Reducing provincial involvement in the certification of municipal employees.

KEY ISSUE

1. Statutory Provisions on Municipal Management

KEY QUESTION

- *Are the statutory provisions regarding municipal management appropriate for ensuring sound public management?*

KEY FACTS

- Many provisions in municipal legislation are devoted to various types of municipal management matters, including: the management of information (minutes, budgets, notices, etc.); the management of municipal finances (expenditures, revenues, assessments, billings); the management of municipal assets, facilities and utilities; and the overall administration related to municipal governance.
- Despite such provisions, there is a notable paucity of general principles regarding both the fundamental nature and purpose of municipal management, and the roles and responsibilities of municipal managers.

KEY VIEWS

- Several oral and written submissions made to the Task Force indicated that there is a desire to see improvements in the statutory provisions regarding municipal management, including the following:
  - Clearer definition of the roles and responsibilities of municipal administrators in legislation; and
  - Clearer definition of the following relationships involving appointed municipal officials:
    - The relationship between appointed municipal officials and elected municipal officials;
    - The relationship between appointed municipal officials and local residents and ratepayers; and
    - The relationship between appointed municipal officials and the Minister or provincial government.

KEY OPTIONS

- Some options for ensuring sound public management in municipal legislation include:
  - **Option 1:** Enhance General Statutory Provisions on Municipal Management
  - **Option 2:** Enhance Statutory Provisions on Roles and Responsibilities of Appointed Municipal Officials

Option 1

Enhance Statutory Provisions on Municipal Management

- This option would see the incorporation of broad principles in municipal legislation or in municipal-provincial protocols regarding the fundamental nature and scope of municipal management.

- Such principles would be included either in addition to or instead of some current provisions regarding municipal management.

- Such principles could be incorporated in included in a separate section of municipal legislation devoted exclusively to management matters as well as in the sections devoted to municipal status and municipal purpose that have been discussed in previous sections of this report.

- Saskatchewan is not unique in not including such principles in its legislation. Although municipal legislation in several provinces explicitly states that municipal governments are "responsible and accountable," the legislation of most other provinces, including Saskatchewan, does not profile any broad principles regarding sound public management other than mentioning "good government" as one of the primary purposes of municipal government. The notable exception is British Columbia's legislation that lists "providing stewardship of the public assets of its community" as one of the main purposes of municipal governments and one of the overall roles and responsibilities of both elected and appointed municipal officials.

- **Enhance Statutory Provisions on Roles and Responsibilities of Appointed Municipal Officials**

Option 2

- This option is consistent with the option in the previous section regarding enhancing the roles and responsibilities of elected municipal officials in municipal legislation.

- This option would see the enhancement of provisions in municipal legislation regarding the broad roles and responsibilities (rather than the specific duties) of appointed municipal officials both for:
  (a) The overall management of the municipality; and
  (b) The appropriate degree of accountability for management to ratepayers, residents, and elected and appointed municipal officials.

- Saskatchewan's current legislation states that the duties of 'administrator/clerk' include attending council meetings, taking minutes, recording votes, maintaining a register of bylaws, and preparing resolutions and other documents, and that those of 'treasurer' include collecting monies, making payments, keeping financial records, and preparing financial statements. The legislation also states that these duties may be performed either by the same person or by different persons. It also permits towns and cities to establish positions of manager and commissioner, but does not prescribe any specific duties or responsibilities for either of them.

- This is not unlike municipal legislation in most other provinces. However, some other provinces including Alberta, British Columbia and Manitoba, outline more general governance and management responsibilities for their Administrator or Chief Administrative Officer (CAO) such as:
  - Serving as administrative head of the municipality;
  - Ensuring municipal policies and programs are being implemented;
  - Advising and informing council on the operation and affairs of the municipality.

- Manitoba's municipal legislation also specifically includes notifying the municipal council of fiscal contraventions to any Act or bylaw as a responsibility of a CAO.

- Nova Scotia's municipal statute sets out the mandatory responsibilities of a CAO as: coordinating and directing plans, ensuring budget preparation, and reviewing and making recommendations on council bylaws and policies.

- Nova Scotia's municipal statute also stipulates the relationship between a municipal council and its CAO. It states that: the CAO is head of the administrative branch; council is to provide direction on policies, plans and programs; and councils can communicate with municipal employees only through the CAO, except to obtain or provide information.

- New Brunswick's municipal renewal initiative recommended that the duties of clerk, treasurer, and auditor should continue to be prescribed in legislation. Conversely, it recommended that the duties and responsibilities of a Manager/CAO should be defined in a bylaw or resolution of the municipal council, rather than defining it in municipal legislation.

KEY DIRECTIONS

- **Consideration should be given to including the following in municipal legislation:**
  - **Broad principles regarding responsible and sound public management; and**
  - **Specific provisions regarding the broad roles and responsibilities of appointed municipal officials.**

KEY RATIONALE

- The proposed directions would help encourage and promote the principle of responsible and sound public administration and management in the municipal government sector through the following:
  - Increasing awareness and thinking about various key principles of municipal management;
  - Clarifying the broad roles and responsibilities of appointed municipal officials in relation to the key principles listed above; and
  - Providing measures and benchmarks of accountability for residents, ratepayers, the general public, and elected and appointed municipal officials.

KEY ISSUE

2. Management of Human Resources

KEY QUESTION

- *What directions should be taken in municipal legislation regarding the enhancement of municipal autonomy in human resource management matters?*

KEY FACTS

- The management of human resources is a substantial responsibility of municipal governments. There are several important statutory provisions and principles regarding various aspects of the management of human resources including the following:
  - Requirements regarding the staffing of certain positions;
  - Requirements regarding the duties of municipal employees;
  - Requirements regarding the qualifications to fill municipal positions;
  - Requirements regarding the certification of municipal employees; and
  - Dismissal of municipal employees.

- Some of the issues and contending viewpoints surrounding municipal autonomy in the management of human resources include:
  - Clarification and enhancement of the current legislative provisions regarding the duties of administrators, clerks, and treasurers;
  - Clarification of the relationship between elected and appointed municipal officials;
  - Eliminating or retaining the statutory requirements for the certification of administrators and clerks in smaller municipalities;
  - Interchangeability of the certification of rural and urban of municipal administrators;
  - Maintaining or reducing provincial government involvement both in the certification and in the dismissal of municipal employees.

KEY OPTIONS

- Some of the options for enhancing municipal autonomy in the management of human resources include:
  - Option 1: Modifying Statutory Positions and Duties of Employees
  - Option 2: Removing Statutory Requirements for Certification of Employees
  - Option 3: Reducing Provincial Involvement in Certification of Employees

Option 1

Modifying Statutory Positions and Duties of Employees

- Current legislation in Saskatchewan requires that all municipalities with populations of 100 or more must hire and appoint one or more persons to serve as administrator or clerk, treasurer, and assessor. The legislation also contains provisions for the creation of the positions of managers and commissioners in towns and cities.

- This is not unlike the legislation in several provinces in Canada that generally prescribes the creation and duties of 'clerks' and 'treasurers', but leaves it to municipal councils to prescribe the duties of other municipal officials such as 'managers', and 'chief administrative officers' either in a bylaw or resolution.

- The exceptions in terms of prescribing the duties of such statutory officers are the municipal statutes of Alberta, British Columbia, Manitoba, Nova Scotia and Ontario that include provisions regarding the broad roles and responsibilities of 'chief administrators' in relation to the broad roles and responsibilities of municipal councils.

- The current provisions regarding the statutory positions identified above allow for flexibility in how councils staff their key administrative offices. Nevertheless, the current provisions are prescriptive regarding reporting arrangements in multi-person offices in that they require 'clerks' and 'treasurers' to report directly to councils rather than to administrators, managers, or commissioners.

- The Saskatchewan Association of City Clerks has indicated in a brief to the Task Force that the current approach contributes to a relatively consistent and standard approach regarding the roles and responsibilities of city clerks, including their responsibility for reporting directly to council.

- There are only minor differences in the municipal legislation of various provinces regarding the statutory positions of municipalities. Such differences include those listed below.
  - Several provinces including Alberta, British Columbia, Manitoba, Nova Scotia, Newfoundland and Ontario refer to their administrator positions as "Chief Administrative Officer" (CAO) positions. New Brunswick's municipal review committee recommended changing the title of the "manager" position to that of a CAO.
  - Alberta and Manitoba do not mention the position of 'clerk' or 'treasurer' in their legislation, but list what are essentially the functions of clerk and treasurer as part of the roles and responsibilities of a Chief Administrative Officer (CAO);
  - British Columbia uses the title "officer of corporate administration" instead of clerk and the title "officer of financial administration" for treasurer;
  - Provisions in Ontario's proposed new municipal act make it clear that a clerk or treasurer need not be an employee of the municipality. This allows more freedom for councils to contract for or cooperate with other municipalities, in performing the prescribed duties.
  - Municipal legislation in Alberta and Manitoba states that the duties of the CAO's are not limited to the work of the municipal council per se, but also extend to the work of the committees of council, unless otherwise decided by councils.

Option 2

Removing Statutory Requirements for Certification of Employees

- Current municipal legislation requires the certification of municipal administrators, clerks and treasurers in all municipalities, except cities, with populations of 100 or more.

- The certification of such officials in municipalities involves a combination of qualifications prescribed in provincial regulations and membership in the respective associations for rural and urban municipal administrators. Certificates are issued by the Department of Municipal Affairs, Culture and Housing, that has representation on two boards of examiners (one for rural and one for urban) along with representatives of the urban and rural associations of municipalities and administrators (SARM, SUMA, RMAA, UMAAS). Generally, the certification requirements and standards for municipal administrators are set by any one or more of the following organizational entities: professional associations of municipal administrators, associations of municipalities, and educational institutions.

- Although Saskatchewan is not unique in recognizing the certification of professional administrators through legislation and regulation, it is unique in making certification a mandatory requirement for hiring municipal administrators, clerks or treasurers for municipalities other than cities. In all other provinces in Canada, there is no legislative requirement for municipal governments to hire 'certified' administrators.

- Although certification standards exist in many provinces for 'statutory municipal officers', generally municipalities can appoint any person to the office of administrator, clerk or treasurer. In Alberta, for example, the provincial government recognizes the professional designation of 'Certified Local Government Manager' granted pursuant to legislation that recognizes the professional association of local government managers. This is similar to Saskatchewan's recognition of the professional designation of 'Registered Municipal Administrator' pursuant to the legislation that recognizes both urban and rural administrator associations. The major difference, however, is that the latter does not have the statutory requirement for municipalities to hire individuals who are certified. Similarly, British Columbia, like Saskatchewan, is involved in the certification and designation of municipal administrators through a board of examiners, but certification is not a requirement for 'statutory municipal officers'.

- The disadvantages and advantages of having statutory requirements for certification of administrators revolve around the following issues:
  - Restricting municipal autonomy in hiring of municipal employees;
  - Limiting the interchangeability of administrators between urban and rural municipalities which, in turn, could create potential barriers to joint administration, inter-municipal cooperation, and voluntary amalgamation or consolidation;
  - Establishing same requirements for all municipalities, regardless of financial capacity and access to qualified personnel;
  - Ensuring the standardization of ability among municipal administrators, clerks, and treasurers to perform prescribed duties; and
  - Ensuring ongoing professional development through membership requirements in administrator associations.

Option 3

- **Eliminate Provincial Involvement in Certification of Employees**

➢ This option would see the elimination of provincial government involvement in the certification of municipal administrators.

➢ As a result of the legislative requirement for certification of statutory municipal employees, the provincial government has played a corresponding role in determining the eligibility for certification along with the associations of elected and appointed municipal officials for both urban and rural municipalities.

➢ Recent amendments to municipal legislation have reduced the provincial involvement in, and removed provincial representation from, boards responsible for dismissal and disciplinary matters related to municipal administrators, leaving these issues to the municipal associations, professional associations and the courts to determine.

➢ However, Saskatchewan's department of Municipal Affairs, Culture and Housing continues to have representation on both the urban and rural boards of examiners. Such boards consist of a mixture of representatives of the provincial government, associations of municipalities, and associations of municipal administrators. It is these boards of examiners that are responsible for the certification for municipal administrators.

➢ Saskatchewan is virtually unique in Canada in this respect. Indeed, British Columbia is the only other province involved in the certification of municipal administrators. Like Saskatchewan the provincial government has representatives on the municipal board of examiners.

➢ In the majority of other provinces, eligibility for certification is determined by municipal associations, professional associations of municipal administrators who grant membership to those who meet the certification standards, and/or educational institutions in the form of degrees, diplomas or certificates.

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Enhancing municipal autonomy and reducing provincial involvement, in the management of municipal human resources;**
  - **Modifications to the statutory positions and duties of municipal employees to maintain and improve upon the flexibility of internal administrative arrangements, structures, job descriptions, and reporting requirements while ensuring sound public management.**
  - **Assessing whether the legislative requirements regarding the certification of municipal administrators are ensuring sound public management or are creating barriers not only to municipal autonomy in the hiring of employees but also to joint administration, inter-municipal cooperation, or voluntary amalgamation;**
  - **Reducing provincial involvement in the certification of municipal employees consistent with a reduction in provincial involvement in other areas of municipal responsibility.**

KEY RATIONALE

- The proposed directions are consistent with calls for renewal to other elements of the municipal system particularly those regarding:
  - Enhanced municipal autonomy over matters within their jurisdiction such as those of an internal or corporate nature.
  - Broader corporate powers or natural person powers within spheres of municipal jurisdiction; and
  - Reduced provincial involvement in municipal matters including reduced approvals.

IX. MUNICIPAL CLASSIFICATION

Introduction

KEY FOCUS

- This section of the report focuses on two key issues regarding the forms of municipal governments in Saskatchewan:
  1. **Classification of Municipal Governments**
  2. **Incorporation Criteria for Municipal Governments**

- The principal focus is on the need for, and nature of, renewal both to the current classification framework of municipalities and to the criteria for incorporating municipalities.

KEY IMPORTANCE

- A review the both the classification and the precise incorporation criteria for municipalities can be very important. This is particularly true if there are to be any significant distinctions, rather than merely symbolic ones, between various types and sub-types of municipalities on important matters such as functions, powers, duties, and finances. There are some important questions that must be addressed regarding the classification framework:
  - First, what purpose has the classification framework served in the past, what purpose does it serve today, and what purpose should it serve in the future?
  - Second, is the underlying logic of the current classification framework still valid?
  - Third, what categories of criteria and precisely what criteria within each of those categories should be used to distinguish between types and sub-types of local municipal governments in the future?
  - Fourth, what importance, if any, should be given to issues such as the capacity and viability of municipalities in developing a municipal classification framework and the criteria for the same?

- In the past the classification framework in Saskatchewan's municipal legislation, as in the legislation of other jurisdictions, has served several purposes including, for example:
  1. Differentiating both the nature and the infrastructure and service needs of communities that are served by different types of municipalities;
  2. Differentiating the functions (i.e., roles and responsibilities) of different types of municipalities;
  3. Differentiating the status and powers of different types of municipalities and their relationship to the provincial government on an array of governance, management, and financial matters;
  4. Differentiating the governance and management frameworks of different types of municipalities; and
  5. Differentiating the financial frameworks of different types of municipalities in the areas of taxation, levies, assessments, provincial-municipal revenue sharing, and provincial grants.

- The question that municipal and provincial governments must ask is to what extent, if any, will the classification, either in its current form or in some modified form, be useful for such purposes in the future?

- If the types of differentiation outlined above are not made in the future, then how important will it be to have a classification framework that differentiates among types of municipalities?

KEY THEMES

- The major theme of this section is that consideration should be given to the continuing relevance of the current municipal classification categories and criteria. More specifically, the major theme is that the classification of municipal governments should be reviewed and possibly renewed to ensure that it serves 'substantial purposes', rather than merely symbolic ones. In ensuring that it serves substantial purposes, attention should be devoted to whether any 'substantial distinctions' that must be made between different types and sub-types of existing municipalities and also any new ones that may need to be created. The types and sub-types of municipalities within the classification framework should be based on 'substantial distinctions' that must be made between them for 'substantial purposes' such as:
  - Substantial differences in the nature and scope of the functions that each type or sub-type of municipality will perform;
  - Substantial differences in the fiscal and organizational capacities of municipalities to perform those functions;
  - Substantial differences in the powers (i.e., authority and autonomy) that each type or sub-type will have; and
  - Substantial differences in the types of communities being governed.

- Accordingly, the criteria for incorporating different types and sub-types of municipalities should reflect those substantial differences, but particularly the first three. If there are not to be any substantial differences, then a classification of types and sub-types might not required.

KEY ISSUE

1. Classification of Municipal Governments

KEY QUESTION

- *Is the current classification of municipalities into three broad types and several sub-types still useful and appropriate, or is change needed?*

KEY FACTS

- Saskatchewan has a one-tier municipal system consisting only of local municipal governments. This is unlike provinces that have two-tier municipal system, and both local and regional municipal governments.

- Saskatchewan's one-tier municipal system has three general types of municipalities, namely, Northern, Rural, and Urban. Within each of these general types, there are sub-types of municipalities and quasi-municipalities.
  - Urban municipalities include four major types of fully incorporated municipalities: cities, towns, villages and resort villages.
  - Rural municipalities include only one major type of fully incorporated municipalities (i.e., rural municipalities). Within these fully incorporated municipalities there are two types of non-incorporated municipal entities namely (i.e. organized hamlets and hamlets).
  - Northern municipalities include three types of fully incorporated municipalities (i.e., northern towns, northern villages, and northern hamlets). Within the Northern Administration Districts there are also two major types of non-incorporated municipal entities (i.e., northern settlements and recreational subdivisions).

- Every province and territory in Canada has a classification framework for local and regional municipalities and quasi-municipalities. Despite many similarities, there are at least two ways in which Saskatchewan's classification framework is somewhat different than many others in terms of the types and sub-types of municipalities.
  - First, Saskatchewan's classification framework is one of the few that include northern municipalities as a general type. The other provinces that identify most, if not all, northern municipalities as a distinct category are Manitoba (Northern Affairs Act) and Quebec (Kativik Region Act), and possibly Newfoundland through its 'Inuit Land Claims Agreement in Principle'.
  - Second, Saskatchewan's classification framework does not include municipal regional governments or authorities as a type of municipalities as does that of other jurisdictions, such as:
    - Ontario (i.e., Counties and Regional Municipalities);
    - Quebec (i.e., Regional County Municipalities, Urban Communities, Kativik Regional Government);
    - Nova Scotia (i.e., Regional Municipalities);
    - Newfoundland (Regional Councils);
    - British Columbia (Regional Districts);
    - Yukon (Regional Structures); and
    - Alberta (Municipal Districts, which because of their relatively large size are in effect regions, and Regional Service Commissions).

- A table of the classification of types and sub-types of municipalities in other jurisdictions in Canada appears on the following page.

Municipal Entities by Province

WESTERN CANADA

ALBERTA

Municipal Districts (includes former Counties)
Improvement Districts
Special Areas
Hamlets (unincorporated)
Cities
Towns
Villages
Summer Villages (no new ones being created)
Metis Settlements
Specialized Municipalities
Regional Service Commissions

MANITOBA

Rural Municipalities
Rural Municipalities
Local Urban Districts (unincorporated)
Local Government Districts
Urban Municipalities
Cities
Towns
Villages
Northern Municipalities
Northern Communities

BRITISH COLUMBIA

Cities
Towns
Villages
Districts
Indian Government District
Mountain Resort Municipality
Island Trust
Regional Districts

SASKATCHEWAN

Urban Municipalities
Cities
Towns
Villages
Resort Villages
Rural Municipalities
Rural Municipalities
Organized Hamlets (unincorporated)
Hamlets (unincorporated)
Northern Municipalities
Northern Towns
Northern Hamlets
Northern Villages
Northern Settlements (unincorporated)
Recreational Subdivisions (unincorporated)

CENTRAL CANADA

ONTARIO

Upper Tier
Regional Municipalities
Counties
Lower-Tier
Cities
Towns
Separated Towns
Borough
Villages
Townships

QUEBEC

Upper Tier
Urban Communities
Regional County Municipalities
Kativik Regional Government (Northern)
Lower Tier
Cities
Towns
Rural Municipalities
Northern Villages

ATLANTIC CANADA

NEW BRUNSWICK

Cities
Towns
Villages
Rural Communities
Local Service Districts

NOVA SCOTIA

Regional Municipalities
Rural Municipalities (includes counties & districts)
Towns
Villages (no new ones being created)

NEWFOUNDLAND & LABRADOR

Cities
Towns
Regional Council (Fogo Island)
Northern
Inuit Central Government (two-tier)
Inuit Community Governments (formerly municipalities)

PRINCE EDWARD ISLAND

Cities
Towns
Communities (includes previous Villages)

KEY PROBLEMS

- The two fundamental problems within the current classification framework are as follows.
- First, it is becoming increasingly difficult to say with any certainty or clarity what substantial purpose much, though by no means all, of the classification framework serves. That this is so, one need only attempt to answer the following questions:
  - "What substantial distinctions does the current classification framework make regarding the fundamental purposes, functions, powers, or capacities of most types and sub-types of municipalities?
  - Furthermore, even if it makes some substantial distinctions for substantial purposes between certain types and sub-types of municipalities, how truly substantial are they, and precisely for how many types or sub-types of municipalities do they apply?
  - What functions do some urban municipalities perform that rural municipalities do not perform, and vice-versa?
  - What special powers, including financial powers, do various urban municipalities have that other urban municipalities do not have?
  - What special financial transfers are conferred on some types or sub-types of municipalities that are not conferred on others?

- Focusing these questions to specific types and sub-types of municipalities may help focus the importance of the issue of 'substantial differences for substantial purposes' even more. Toward that end the following types of questions should be considered:
  - How substantial are the differences between northern towns and northern villages?
  - How substantial are the differences between many northern villages hamlets, and settlements?
  - How substantial is the difference between city of 5,000 and a town of 4,500?
  - How substantial is the difference between a town of 500 and a village or resort village of 400?
  - How substantial is the difference between a village and a resort village?
  - How substantial is the differences between a village, resort village and an organized hamlet or hamlet, other than the fact that first two are separate and independent entities under ***The Urban Municipality Act*** and the last two are dependent entities within rural municipalities under The Rural Municipality Act?
- The answers to many of the foregoing questions are provided in previous parts of this report. For all intents and purposes of this particular section of the report, the profiling of these important questions should suffice as indicators of what must be considered in reviewing the classification framework, including the incorporation criteria related to various types and sub-types of municipalities.
- Addressing those questions is particularly important in light of the increased blurring of distinctions not only between what constitutes 'urban' and 'rural', but also between what constitutes towns, villages, resort villages, and organized hamlets either in terms of their population or the functions (i.e., roles and responsibilities) of their municipal governments. A notable example, though by no means the only one, of such blurring with which many people are quite familiar exists between the 'village' of White City and the adjoining 'hamlet' of Emerald Park.

KEY VIEWS

- Oral and written submissions received by the Task Force were often divergent regarding the classification of municipalities.

- Some felt that the current types of municipalities should be retained.

- Some felt that some current types of municipalities and quasi-municipalities (e.g., villages, resort villages and organized hamlets) should be eliminated or that a moratorium should placed on the creation of these types of municipalities or quasi-municipalities in the future. Those who expressed this particular view were concerned that if more such small municipal entities were to be established it would create additional unnecessary fragmentation in the system. Such concern was particularly pronounced among representatives of rural municipalities who feared the consequences of having individual communities within their borders being granted status as villages or resort villages. Some of the consequences that they feared were that rural municipal governments and their communities would incur a major of loss of population, loss of assessment base, and loss of a certain degree of control over planning and development matters within their borders.

- Conversely others wanted the classification framework to continue to recognize and allow for the creation of villages and resort villages because they felt that this was the only means by which they could be assured that they could govern themselves independently from rural municipalities.

- Some felt that there may be a need for new and innovative types of local municipalities that can accommodate the following:
    - Amalgamation of two or more neighbouring urban communities separated either by a substantial part or even a very small strip of a rural municipality.
    - Amalgamations of urban and rural communities to form what some referred to as 'rurbans'.

- Some supported and others opposed the creation of either one-tier or two-tier regional municipalities or regional authorities to perform certain functions and deliver certain services on a broader regional basis.

- Clearly, the foregoing overview of the contending view expressed in the oral and written submissions on the issue of the classification and creation of the types and sub-types of municipalities reveal a lack of consensus on directions for renewal to this facet of the municipal system.

KEY OPTIONS

- There are three key options regarding the classification of municipal governments:
    - **Option 1:** Retain Current Types and Sub-Types of Municipalities
    - **Option 2:** Consolidate Current Types and Sub-Types of Municipalities
    - **Option 3:** Add New Types and Sub-Types of Municipalities

Option 1

Retain Current Types and Sub-Types of Municipalities

- Under this option, the current classification and typology would remain the same with three general types of municipalities (i.e., urban, rural and northern) and the corresponding sub-types of municipalities and quasi-municipalities.

Option 2

Consolidate Current Types and Sub-Types of Municipalities

- Under this option, some types or sub-types of municipalities would be eliminated or consolidated with other types and sub-types of municipalities.

- Examples of the elimination and consolidation of types of municipalities in other jurisdictions include:
    - Manitoba removed the distinction between 'town' and 'village' grouped them into general type known as 'urban municipalities'. The individual municipalities are allowed to call themselves whatever they desire for their purposes (i.e., town, village, or urban municipality).
    - Alberta no longer allows the creation of 'summer villages', but it allowed for the continuance of existing ones.

Option 3

Add New Types and Sub-Types of Municipalities

- This option would add new types and sub-types of municipalities to the classification framework.

- One general type that might be considered for addition to the classification framework is regional municipalities or authorities.

- Furthermore, such regional municipalities or municipal authorities could consist of two major sub-types:
    - Those operating on a one-tier basis; and
    - Those operating on a two-tier basis.

- The addition of such regional governments and authorities to the existing classification framework would, in effect, give Saskatchewan a framework comparable to that of other provinces and territories that have a classification framework both for local and for regional municipal governments and authorities.

KEY DIRECTIONS

- **Consideration should be given to reviewing the existing municipal classification framework to determine precisely how useful it is, and how useful it will continue to be in the future, for making 'substantial distinctions for substantial purposes' that are required for the effective operation of the municipal framework.**
- **Consideration should be given to the merits of retaining the threefold classification of rural, urban and northern municipalities, but consolidating the sub-types contained within the general types of urban municipalities and northern municipalities.**
- **Consideration should be given to the merits of adding to the classification framework regional types and sub-types of municipalities or authorities that may operate either on a one-tier basis, a two-tier basis, or both.**

KEY RATIONALE

- The proposed directions would contribute to the following:
  - Developing an appreciation on everyone's part of the extent to which the current classification framework is useful for their respective purposes in making 'substantial distinctions for substantial purposes' required for the effective operation of the municipal system;
  - Revealing whether the current classification framework is appropriate;
  - Indicate what type a modified classification framework, if any, is necessary both for municipal and provincial governments in making 'substantial distinctions for substantial purposes' that are required for the effective operation of the municipal system;
  - Developing appropriate criteria for each type or sub-type of municipality that would ensure both that:
    - There would be 'substantial distinctions for substantial purposes' at the core of the classification framework; and
    - The incorporation, reversion, or dissolution of various types and sub-types of municipalities would be well founded and serve some important or substantial purposes.

KEY ISSUE

2. Incorporation Criteria for Municipal Governments

KEY QUESTIONS

- *Are the current incorporation criteria for various types and sub-types of municipalities appropriate?*

KEY FACTS

- Saskatchewan's current criteria for classifying urban and northern municipalities are population and, for some types of municipalities, the number of dwellings.

- The basic nature of the incorporation criteria has changed little since Saskatchewan's first municipal legislation was enacted in 1908. Population size was and remains the most significant criterion.

- Saskatchewan does not have any criteria for the incorporation of rural municipalities. The only statutory criteria for the incorporation of rural municipalities that ever existed were eliminated in recent decades. Those criteria had both a geographic and demographic or population component. Evidently those criteria were eliminated in recent decades in part because they placed undue constraints on the provincial government in its efforts to convert improvement districts that were larger than what was prescribed in legislation to rural municipalities. It is noteworthy that if those criteria had been retained some rural municipalities that have experienced a substantial decline in population over time would not have been able to meet the population criterion that was originally specified in legislation.

KEY PROBLEMS

- The current incorporation criteria is problematic in at least two ways:
  - The criteria do not make 'substantial distinctions' between most types of and sub-types of municipalities given the nature of the population ranges and the blurring of what constitutes urban and rural in this province.
  - The distinctions that are made by the criteria between some types and sub-types of municipalities are not for 'substantial purposes' such as their functions or their capacities to perform those functions.

KEY VIEWS

- The views expressed in oral and written submissions regarding the criteria for classification of municipalities suggested several possible changes. Unfortunately, however, a consensus was not evident.
  - Some felt that the current criteria should be retained without changes.
  - Some felt that the current criteria for urban municipalities and organized hamlets are still useful, but the prescribed population levels need to be increased in order to ensure a minimum threshold for viability and provision of services.
  - Some felt that there is a need to establish some minimum criteria for rural municipalities such as population, assessment, and land bases.
  - Some suggested establishing new criteria that would apply to all municipalities designed to take into account their capacity to provide a certain core set of municipal services.
  - Some suggested that one of the major problems with the current criteria is not the population thresholds, but the lack of a good decision-making mechanism that can be used to apply and enforce the criteria. This was deemed to be a particularly significant issue in situations where either reversion or dissolution is in order because existing municipalities no longer meet the incorporation criteria for their particular type or sub-type.

KEY CRITERIA

➢ The table below compares Saskatchewan's incorporation criteria to those of other jurisdictions. The table reveals that various other jurisdictions have:

- Higher population ranges;
- Criterion on Minimum assessment bases;
- Criterion on Combinations of geographic area and population density;
- Criterion on Size of Majority of Lots/Properties (Alberta); and
- Criterion on Level of Services Provided (New Brunswick where a village is incorporated as a town "…if it has a population greater than 1500 and provides a level of service that the Minister considers adequate.").

Criteria for Classification of Local Municipalities in Canada

	Cities	Towns	Villages	Resort Villages	Rural Municipalities
Saskatchewan	**• 5,000**	**• 500**	**• 100** **• 50 dwellings**	**• 100** **• 50 dwellings**	**• No minimum criteria**
Alberta	• 10,000	• 1,000	• 300	• Summer Village type repealed in '94 (none being created)	• 1,000 • Called Municipal Districts
British Columbia	• 5,000	• Population between 2,500 -5,000	• Population under 2,500	• No minimum population criteria	• Area greater than 800 ha & density under 5 persons/ha • Called District Municipalities
Manitoba	• 7,500	• 1,000 residents and density of at least 400 residents/square km • Called Urban Municipalities previous towns & villages with populations under 1000 retained		N/A	• 1,000 residents and a population density less than 400 residents per square km
New Brunswick	• 10,000	• 1,500 pop. and provides level of services the Minister deems appropriate.	• No specific requirements or criteria.	N/A	N/A
Newfoundland & Labrador	• Established by legislation	• No specific criteria	N/A	N/A	N/A
Northwest Territories	• $200 million assessment	• $50 million assessment	• $10 million assessment	N/A	N/A
Nova Scotia	• Now part of Regional Municipalities	• Application by at least 100 electors	• Continued as corporate bodies, no new ones being created	N/A	• No specific criteria • Called counties & districts
Ontario	• 15,000 if previously a village or town, 25,000 if a township	• Not less than 2,000	• Not less than 500	N/A	• Not less than 1,000 • Called Townships
Prince Edward Island	• Established by legislation	• Petition signed by 25 residents can establish Towns or Communities. Former villages are communities.		• Petition by at least 15 permanent & 15 temporary residents	N/A
Quebec	• Established by legislation, charters or letters patent.		N/A	N/A	• No specific criteria
Yukon	• Estimated population of 2,500 or more	• Estimated population of 300 or more	• Have been given town status	N/A	• Rural Structures can be created by petition of 30% of voters

KEY OPTIONS

- There are at least four key options regarding the criteria for the incorporation of local municipal governments:
  - **Option 1:** Retain Current Criteria Categories and Thresholds
  - **Option 2:** Modify Current Criteria Thresholds
  - **Option 3:** Modify Existing Criteria Categories
  - **Option 4:** Add Criteria Categories and Thresholds for Rural and Regional Municipalities

Option 1

Retain Current Criteria Categories and Thresholds

- Under this option the current incorporation criteria categories and thresholds for classification would remain the same.
- For urban municipalities, northern municipalities, organized hamlets, and hamlets this would mean that the existing categories of criteria (i.e., population and/or dwellings) and the thresholds for them would remain the same.
- For rural municipalities this would mean that there would not be any incorporation criteria categories or thresholds.

Option 2

Modify Existing Criteria Thresholds

- Under this option the current incorporation criteria thresholds for the existing incorporation categories (i.e., population and dwellings) for urban and northern municipalities would be modified.
- The principal focus would be on the merits of modifying the thresholds for the size of population and the number or types of dwelling upward for each sub-type of urban and northern municipality so that they would be comparable to those in other provinces.

Option 3

Add New Criteria Categories

- Under this option new incorporation criteria categories (i.e., population and dwellings) would be added to the existing ones such as, for example, size of assessment base, and size of geographic area.
- The resulting incorporation criteria categories would be a combination of:
  - Population Base;
  - Assessment Base; and
  - Geographic Base.

Option 4

Add Criteria for Rural and Regional Municipalities

- Under this option incorporation criteria would be added for rural municipalities. Moreover, if provisions were to be included in legislation for the creation of regional municipalities or authorities some incorporation criteria could also be added for them. Such criteria could consist of the same types of criteria categories as for urban and northern municipalities, but the criteria thresholds could be different. The goal would be to produce incorporation criteria categories and thresholds that would provide some relatively reliable indicator regarding, among other things, of the capacity of municipalities in performing their functions (i.e., roles and responsibilities) and fulfilling their purposes as outlined in the municipal statutes.

KEY DIRECTIONS

- **Consideration should be given to reviewing the incorporation criteria for all types and sub-types of municipalities and other municipal entities (i.e., organized hamlets and hamlets) to determine whether they make 'substantial distinctions for substantial purposes' that are required for the effective operation of the municipal system.**

- **Consideration should be given to the merits of changing the incorporation criteria for all urban municipalities with a special focus on:**
  - **Minimum population base**
  - **Minimum assessment base**
  - **Minimum geographic base**

- **Consideration should be given to merits of establishing criteria for the incorporation of rural and/or regional municipalities comparable to that of other urban municipalities in this province and rural and regional municipalities in other jurisdictions with a special focus on:**
  - **Minimum population base;**
  - **Minimum assessment base; and**
  - **Minimum geographic base.**

- **Consideration should be given to the merits of developing a decision-making mechanism and process for ensuring the appropriate and timely application and enforcement of incorporation criteria for all types and sub-types of municipalities.**

KEY RATIONALE

- The proposed directions could contribute to developing appropriate incorporation criteria categories and thresholds for each category of municipalities. In turn, this could result in a classification framework of municipalities that would provide provincial and municipal governments and the public with a classification framework that makes 'substantial distinctions for substantial purposes' among different types and sub-types of municipalities. The development of appropriate criteria could contribute to more rational and sound decisions regarding important matters such as the authority, criteria and conditions for incorporation, reversion, dissolution, annexation, and amalgamation.

- Of course, the development of appropriate criteria may not be enough. Appropriate incorporation criteria may also have to be applied and enforced in an appropriate and timely manner if it is to contribute both to the capacity of individual municipalities to perform their functions and fulfill their purposes, and the effective operation of the municipal system as a whole.

- In developing a classification framework and the incorporation criteria for all municipalities special consideration should be given to issues of municipal and community 'stress', 'capacity', and 'viability'.

- For a full appreciation of this point it would be useful for those involved in the renewal process to consider devoting special attention to given to the following publication: John A. Marshall, and David J.A. Douglas. ***The Viability of Canadian Municipalities: Concepts and Measurements.*** [Toronto: ICURR, 1997).

- As the authors of that report note: "…as Canada's local governments grapple with the daunting changes that are facing them, this report may prove to be a valuable springboard from which to launch productive debates."

- That publication explores various issues related to the concepts of community and municipal 'stress', 'capacity' and 'viability", all of which are important in considering the current and future state of Saskatchewan's communities and municipalities.

- That publication underscores the importance of the inextricable linkage between financial, governance, and community capacity and viability as key components of municipal capacity and viability. Four key chapters in that study deal, in turn, with: 'Financial Viability', 'Governance Viability', 'Community Viability', and 'Municipal Viability'.

- Particularly noteworthy in the chapter that deals with the concept of 'Municipal Viability' is the section on determinants of viability that highlights the following:
  - General societal attitudes to government;
  - Provincial constitutional obligations;
  - Program responsibilities and expectations;
  - Intergovernmental environment and relationships;
  - Community consent and shared values and needs;
  - Ability to sustain the local council;
  - Ability to provide an acceptable range and quality of affordable services; and
  - Willingness and ability to finance governance and services.

- In summary, an appropriate classification framework for municipalities combined with an appropriate set of incorporation criteria could prove useful if it is able to provide provincial and municipal governments and the public with a framework that makes 'substantial distinctions for substantial purposes' between types and sub-types of municipalities. Toward that end, any classification framework and sets of incorporation criteria should focus on their usefulness in making distinctions regarding important aspects of communities and municipalities such as, but not limited to, the 'nature, needs and capacities of communities', and the 'functions and finances of municipalities'.

X. MUNICIPAL PROCESSES

Introduction

KEY FOCUS

- This section of the report focuses on five key processes related to municipal governance:
  1. **Incorporation Processes**
  2. **Dissolution Processes**
  3. **Reversion Processes**
  4. **Annexation Processes**
  5. **Amalgamation Processes**

- In examining those processes the focus is on issues and options related to:
  - Authority frameworks for such processes; and
  - Criteria and conditions for such processes.

KEY IMPORTANCE

- A review and renewal of these five processes is important for three reasons.

(a) *Lack of Review for Some Time*

- First, the review of these five processes is very important because until recently there had not been a substantial review that focused on any of them since they were first established in the current statutes. Indeed, the recent review on the part of the Municipal-Provincial Roundtable to deal with certain facets of the amalgamation process is the first substantial effort to review at least some facets of those processes.

(b) General Problems in the Statutory Provisions

- Second, the current processes have some problematic features that sometimes compromise their efficacy in achieving what they were designed to achieve in an efficient, effective and equitable manner. The specific problems associated with each of them are outlined below. Generally, however, they entail three problematic statutory features:
  - Inappropriate or unclear assignment or alignment of authority;
  - Inappropriate or unclear criteria or conditions; and
  - Differences in certain processes for urban, rural, and northern of municipalities for which there is no clear justification.

(c) *Growing Importance of these Processes*

- Third, the reliance on those processes is likely to increase in the near future for three interrelated reasons.
  - Changes in the populations of municipalities and quasi-municipalities;
  - Changing preferences of municipal councils and their electors; and
  - Efforts of the Municipal-Provincial Roundtable to eliminate impediments to voluntary amalgamation.

- *Changes in the Populations of Municipalities and Quasi-Municipalities*

- The first reason that the importance of those processes is likely to increase is changes in the population of municipalities and quasi-municipalities. The use and importance of these processes will increase dramatically as the population of some municipalities and quasi-municipalities decreases and that of others increases. Under the current classification system and the corresponding criteria and conditions for incorporation, dissolution, and reversion of municipalities, such population changes precipitate the need to use not only those three particular processes but possibly also the other two (i.e., annexation and amalgamation).

- ***Changing Preferences of Municipal Councils or Boards and Their Electors***

➢ The second reason that the importance of those processes is likely to increase is changes in the preferences of municipal councils or boards and their electors for changing the status of municipalities and quasi-municipalities or for undertaking some annexations or amalgamations. The use and importance of these processes is likely to increase dramatically as the preferences of councils, boards, and electors change. Such changes will occur for a variety of reasons, including a preference on the part of some municipal governments to assume a status that yields the optimal balance between costs and benefits for their particular communities and ratepayers. This includes, for example:
  - ♦ Hamlets that prefer to be organized hamlets and vice-versa;
  - ♦ Organized hamlets that prefer to be villages and vice-versa;
  - ♦ Villages that prefer to be towns and vice-versa; and
  - ♦ Towns that prefer to be cities and vice-versa.

➢ Such preferences tend to be tied to three major considerations:
  - ♦ The degree of authority or autonomy that accrues from being a particular type of municipality;
  - ♦ The load of roles and responsibilities that accrue from being a particular type of municipal entity; and
  - ♦ The financial benefits or liabilities that accrue from being a particular type of municipal entity.

- ***Municipal-Provincial Roundtable's Initiative to Eliminate Impediments to Voluntary Amalgamation***

➢ The third reason that the importance of those processes is likely to increase is the laudable efforts of the Municipal-Provincial Roundtable to eliminate obstacles to voluntary amalgamation outlined in their report on that issue. In addition to increasing reliance on the amalgamation process if that initiative succeeds in fostering and facilitating amalgamations, there might also be a corresponding increase in annexations, dissolutions, reversions, incorporation involving the amalgamated municipalities and/or their neighbours.

➢ This section of the report builds on the work of the Municipal-Provincial Roundtable in two ways:
  - ♦ It examines certain aspects of the amalgamation processes that to date have not been addressed fully by the Roundtable; and
  - ♦ It examines the incorporation, dissolution, and reversion processes that to date have probably not been dealt with in detail by the Roundtable.

KEY THEMES

➢ The key themes running through the review of the issues, options, and potential directions related to each of those processes are that:
  - ♦ The authority frameworks should be clarified to eliminate any confusion of legal and political responsibility for each process;
  - ♦ The criteria and conditions related to each process should be explicit; and
  - ♦ The criteria and conditions should be applied and enforced in an appropriate and timely manner.

KEY ISSUE

1. INCORPORATION PROCESSES

Introduction

- Incorporation is the means by which municipalities acquire their legal corporate status. Such status gives municipal governments the authority to operate as legitimate and authoritative governing entities pursuant to the terms and conditions specified in legislation.

KEY FOCUS

- This subsection of the report focuses on the need for and nature of renewal to the authority for municipal incorporation. The need for and nature of renewal to the criteria and conditions for municipal incorporation were addressed in the previous section of this report.

- This subsection focuses on four key issues related to the authority regarding incorporation processes including:
  1. **Authority to Initiate Incorporation**
  2. **Authority to Object to Incorporation**
  3. **Authority to Approve Incorporation**
  4. **Degree of Discretion in Authority for Incorporation**

KEY ISSUE

1.1 Initiating Incorporation

KEY QUESTION

- *Who should have the authority to initiate the incorporation of municipalities?*

KEY FACTS

- The current statutory provisions for incorporating urban, rural, and northern municipalities contain some notable differences in terms of explicit provisions regarding who may initiate an incorporation process.

- *The Rural Municipality Act* identifies explicitly only the Minister as someone who may initiate an incorporation process for rural municipalities in the absence of an application for incorporation either from residents or from a municipal council. That particular statute is silent on the role of voters in initiating the process for the incorporation of a rural municipality.

- Neither *The Northern Municipalities Act* nor *The Urban Municipality Act* identifies explicitly only the Minister as someone who may initiate an incorporation process without an application from either municipal councils or electors.

- *The Urban Municipality Act* and *The Northern Municipalities Act* identify explicitly municipal councils and electors as the ones who may initiate either an incorporation or a change in status of an existing urban or northern municipality. In both cases, however, electors are identified only for smaller municipal or quasi-municipal entities.

- Indeed, in all three core municipal statutes the electors are identified only in initiating processes related to the smallest types of municipalities and quasi-municipalities, namely organized hamlets, hamlets, resort villages, and northern settlements. The various municipal acts identify explicitly the electors as the ones who may petition the Minister to initiate the establishment of such entities.

Other Jurisdictions

- ➢ The statutory provisions regarding incorporation in other jurisdictions generally state that any one or more of the following may initiate an incorporation process: a municipal minister, a municipal council, the municipal electors.
- ➢ The major differences in the provisions of the various other jurisdictions stem from precisely which of those listed above may initiate an incorporation process, and conditions under which they may or must do so.
- ➢ For example, legislation in Manitoba and the Yukon explicitly state that a proposal to form a municipality may be initiated by the Minister, the council of the municipality, or a certain percentage of municipal electors. The statutes of other jurisdictions stipulate that the incorporation process can be initiated only by a petition or application of electors (e.g., NWT, PEI).
- ➢ Where there are statutory provisions that permit municipal electors to initiate an incorporation process, some provinces require at least 10% to 50% of such electors (e.g., Alberta, British Columbia, Manitoba, and Yukon), and others require a minimum number ranging from 25 to 75 of residents or voters (e.g., NWT, PEI, Ontario).
- ➢ Legislation in some provinces stipulates that the Minister may initiate the incorporation process (e.g., New Brunswick, Newfoundland).

KEY OPTIONS

Options Regarding Who Should be Authorized to Initiate Incorporation

- ◆ **Option 1:** Only Municipal Electors
- ◆ **Option 2:** Only Municipal Council
- ◆ **Option 3:** Only Municipal Minister
- ◆ **Option 4** : All or some combination of the above

Options Regarding Degree of Variation on Initiating Incorporation

- ◆ **Option 1**: No Variation
- ◆ **Option 2**: Variation

KEY DIRECTIONS

- ➢ **Consideration should be given to:**
  - ◆ **Whether statutory provisions regarding the authority for initiating municipal incorporation of various types and sub-types of municipalities should be uniform; and**
  - ◆ **Whether there should be any changes to the authority (i.e., roles and responsibilities) of the following in initiating municipal incorporation of various types and sub-types of municipalities:**
    - **Municipal Electors,**
    - **Municipal Council,**
    - **Municipal Minister, and**
    - **Other(s).**

KEY ISSUE

1.2 Objecting to Incorporation

KEY QUESTION

- *Who should be able to object to the incorporation of municipalities?*

KEY FACTS

- There are some notable differences among the three Acts regarding who may object to an incorporation initiative:
  - *The Rural Municipality Act* contains no provisions regarding who may object to such an initiative and what must be done when someone does.
  - *The Urban Municipality Act* provides that a notice regarding the incorporation of a resort village or village must be posted stating a time by which objections are to be filed with the Minister. Moreover, if an objection has been filed regarding the incorporation of a resort village the Minister may not only appoint someone to conduct and report upon a public meeting, but also order a vote of the proposed electors of the resort village. Similarly, if an objection is filed regarding the incorporation of a village, the Minister may order a vote of the proposed electors of the village.
  - *The Northern Municipalities Act* states that a notice regarding the incorporation of any northern municipality (hamlet, village or town) must be posted stating a time by which objections are to be filed with the minister. Public meetings and plebiscites related to establishing municipalities are held at the discretion of the Minister, regardless even if no objections are filed.
- Municipal legislation is not consistent in identifying either:
  - Who may object to an incorporation proposal; or
  - The process by which these objections may be formalized.
- The Task Force received many submissions from rural municipal councils regarding the incorporation of resort villages. These submissions did not object to any particular provisions regarding the incorporation process. Instead, they objected to the relatively low population criteria for incorporation. Those submissions, along with others received by the Task Force, highlight the importance of providing an opportunity for councils and ratepayers affected by an incorporation to be notified of the initiative and to be given an opportunity either to object to it or to support it.

Other Jurisdictions

- There are significant differences among various jurisdictions on the nature and scope of public involvement in the incorporation process. The major differences between them are:
  - Who is responsible for providing an opportunity public involvement;
  - Who is notified regarding incorporation processes; and
  - The nature or means of public involvement.
- Generally, the responsibility for ensuring that an opportunity for public involvement is provided usually rests with one of the following:
  - Council (e.g., BC, Manitoba if council is proponent);
  - Minister (e.g., Newfoundland, Northwest Territories, PEI); and
  - Municipal Board (e.g., Ontario, Yukon, Quebec, Manitoba - if Minister is the proponent).
- Some jurisdictions also require notification of other governing entities such as:
  - 'Affected' municipalities and local authorities (e.g., Alberta, Manitoba);
  - 'Nearby' municipalities and First Nations (e.g., Yukon); and
  - Municipal associations (e.g., Yukon).
- Several jurisdictions authorize the Minister to hold public votes on incorporation (e.g., Alberta, British Columbia, Manitoba, and the Yukon).

KEY OPTIONS

Options Regarding Who May Object to Incorporation Proposals

- **Option 1:** Only Municipal Electors
- **Option 2:** Only Municipal Council(s)
- **Option 3:** Only Municipal Minister
- **Option 4:** All or any combination of the above

Options Regarding Public Consultation

- **Option 1:** Petition/Counter-Petition
- **Option 2:** Public Notice and Meeting
- **Option 3:** A Vote of the Electorate

Options Regarding Variation on Objecting to Incorporation

- **Option 1**: No Variation
- **Option 2**: Variation

KEY DIRECTIONS

➢ **Consideration should be given to:**

- **Whether statutory provisions for objections to municipal incorporation proposals should be the same for all types of municipalities;**

- **Whether there should be any changes to the authority (i.e., roles and responsibilities) of any of the following for registering objections to incorporation proposals:**
    - **Municipal Electors,**
    - **Municipal Councils,**
    - **Municipal Minister, and**
    - **Other(s).**

- **Whether municipal legislation should stipulate that public consultations on a proposed incorporation will entail:**
    - **Publication of notice of the proposal;**
    - **The holding of public meetings on the proposal; and**
    - **Reporting to the Minister the results of public meeting;**

- **Whether legislation should authorize the ministers responsible for municipalities to invite comments from any authority or individual that they feel could be affected by an incorporation process; and**

- **Whether plebiscite or referendum votes resulting from objections to incorporation proposals should be required only if significant objections regarding an incorporation proposal warrant such votes.**

KEY ISSUE 1.3 Approving Incorporation

KEY QUESTIONS

- *Who should approve or ratify the incorporation of a municipality?*

KEY FACTS

- *The Northern Municipalities Act*, *The Rural Municipality Act* and *The Urban Municipality Act* all state that the Minister, by order, has the authority to approve the incorporation of municipalities.
- There are essentially four basic models used by other jurisdictions for approving, ratifying and ordering the incorporation of a municipality.
  - Model 1: Minister (NWT, Newfoundland for quasi-municipalities).
  - Model 2: Cabinet (Alberta, BC, Manitoba, New Brunswick, Nova Scotia, PEI, Quebec, Yukon).
  - Model 3: Municipal Board (Ontario).
  - Model 4: Legislature (Cities in Newfoundland, PEI, Quebec).

KEY OPTIONS

- Option 1: Status Quo -Ministerial Approval or Order
- Option 2: Cabinet Approval or Order
- Option 3: Municipal Board Approval or Order

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether statutory provisions regarding authority for final approval of incorporation should be uniform for all types and sub-types of municipalities; and**
  - **Whether there should be any changes to the authority of any of the following for approving incorporation proposals:**
    - **Municipal Electors,**
    - **Municipal Councils,**
    - **Municipal Minister. and**
    - **Other(s).**

KEY ISSUE 1.4 Degree of Discretion in Authority for Incorporation

KEY QUESTION

- *What degree of discretion should exist in the authority for incorporation of various types of municipalities?*

KEY FACTS

- Current municipal legislation gives the Minister considerable discretion in deciding whether to incorporate a municipality. The legislation states Generally the statutes state that the Minister may order incorporation when any existing criteria or conditions, if any, such as the minimum population criteria that apply for all municipalities as in the case for urban and northern but not rural, are met.

KEY OPTIONS

- Municipal legislation in other provinces and territories also appears to provide considerable in authority for incorporating a municipality.
  - Option 1 : No Discretion
  - Option 2: Discretion

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether the degree of discretion should be the same for all types and sub-types of municipalities;**
  - **Whether provisions are needed on the degree of discretion that may be exercised for incorporation; and**
  - **Whether the degree of discretion should be minimized.**

KEY ISSUE

2. DISSOLUTION PROCESSES

Introduction

- Dissolution is a means by which a municipal entity may lose its status as an incorporated municipal entity. After dissolution, the territory and people that were governed by the dissolved municipality are governed either by the provincial government, some unincorporated local authority, some other incorporated municipal government through amalgamation or annexation, or by some other order of government (e.g., First Nations reserves).

KEY FOCUS

- The focus of this subsection is on the need for and nature of changes to both the authority as well as the criteria and conditions regarding the dissolution processes of various types of municipalities.

- The focus is on the following facets of dissolution:
  1. Initiating Dissolution
  2. Objecting to Dissolution
  3. Approving Dissolution
  4. Degree of Discretion in Authority for Dissolution
  5. Criteria and/or Conditions for Dissolution

KEY IMPORTANCE

- A review of the dissolution processes is important for many, if not all, of the reasons noted at the outset regarding the need to review all of the municipal processes being examined in this section of the report, as well as several other reasons.

- Dissolution is an important process, and one that is likely to become even more important in the future given that, unfortunately, the population and economic bases of some smaller municipalities are eroding at a relatively fast pace.

- This is particularly true of many towns, villages and organized hamlets, and rural municipalities with relatively small population and economic bases.

- In the case of some of those municipal entities dissolution, or at least either amalgamation or annexation with other municipalities, is inevitable unless, of course, some major economic development were to occur within and around their boundaries in the very near future.

- Finally, the statutory provisions for dissolution are becoming increasingly important in light of the desire and commitment on the part of municipal associations and member of those associations to foster and facilitate voluntary dissolution as part of voluntary amalgamation.

- There are at least four major problems with the current processes for dissolution.

(a) Problems Regarding Equality

- First, the current dissolution processes are problematic from the standpoint of the equality of municipalities and ratepayers. Under the current situation some municipalities are denied incorporation as a certain municipal type because they barely fail to meet the incorporation threshold, yet those that are well below it can continue to operate as a particular type.

(b) Problems for Inter-Municipal Relations

- Second, the current dissolution processes are problematic from the standpoint of inter-municipal relations as a result of the above inequalities and certain municipalities operating as and enjoying perceived benefits of incorporation as certain type, yet are well below the incorporation criteria for that type.

(c) Problems for Provincial-Municipal Relations

- Third, the current Dissolution process is problematic from the standpoint of provincial-municipal relations, particularly in the areas of financial matters. Under the current system it becomes much more difficult for the provincial government to treat all municipalities within a certain typology the same.

- If the classification scheme does not provide a reasonable basis on which to assume that all those municipalities within a given category or class all meet the basic incorporation criteria, the value of the classification scheme for certain purposes is either greatly, or possibly even completely, diminished.

(d) Problems of Clear Responsibility on Dissolution

- Fourth, the current dissolution process is problematic from the standpoint of responsibility. Municipal councils and the Minister feel that they share responsibility for initiating the dissolution of municipalities. Recognizing that they share responsibility for initiating dissolution, each of them waits for the other to do so for municipalities that have fallen below the required threshold for incorporation as a particular type of municipality.

- Currently approximately one-fifth to one-fourth of all urban and northern municipalities fall below the population threshold specified under the incorporation criteria for their particular type. This does not include rural municipalities for which there is no population criteria or any other comparable incorporation criteria.

- This situation has persisted for some time, and will likely increase dramatically over the next few years. Yet, until recently little attention has been devoted to this situation by anyone on the provincial or municipal side.

- To their credit, however, recently members of the Municipal-Provincial Roundtable have devoted some attention to this issue, albeit somewhat indirectly, through their efforts to eliminate obstacles to voluntary amalgamation.

- If substantial progress were made on voluntary amalgamation involving municipalities that have fallen below the population threshold for incorporation either for their particular type of municipality or any type of municipality, much of the current backlog of potential dissolution cases could be eliminated.

- If such progress is not made, however, the backlog and the anomalies of having municipalities in classes for which they do not meet the basic incorporation criteria will not only remain but are likely to increase over time. If this happens, then what will it mean to have a designation as a particular type of municipality? In other words, of what practical use will it be either for the municipalities, the provincial government, or anyone that deals with either of them?

KEY ISSUE

2.1 Initiating Dissolution

KEY QUESTION

- *Who should be authorized to initiate the dissolution of a municipality?*

KEY FACTS

- There are some notable differences among the three core municipal acts regarding who is explicitly identified as having the authority to initiate a dissolution process:
  - *The Northern Municipalities Act* explicitly identifies only the Minister as the one who may initiate a dissolution process.
  - *The Rural Municipality Act* identifies the Minister and the council of the rural municipality as the ones who may initiate a dissolution process involving organized hamlets.
  - *The Urban Municipality Act* identifies the Minister, the municipal council, and the electors as the ones who may initiate such a process.

KEY VIEWS

- None of the three core municipal acts explicitly or implicitly states that the Minister must await either a request by councils or by the electors to initiate a dissolution process.

- Under existing legislation, the power to initiate the dissolution of a municipality rests solely with the Minister. These provisions preclude the ability of local people and their elected representatives from initiating a process that would allow them to determine the precise type of municipality that best meets the needs of their community.

- The bulk of oral and written submissions to the Task Force indicated that the municipal councils and ratepayers of the municipalities in question are generally in a better position than either the provincial government or any commission to determine if there is a genuine need for dissolution.

- Nevertheless, the majority of submissions also indicated that the enforcement of minimum criteria to retain a particular municipal status is necessary and that some municipalities should be dissolved because they are clearly warranted and in some cases long overdue.

Other Jurisdictions

- The statutory provisions for dissolution in other provinces reveal some important similarities and differences on who may initiate dissolution processes. Generally, the statutes provide that any one or more of the following may initiate a dissolution process:
  - Provincial Cabinet
  - Provincial Commissioner
  - Municipal Minister
  - Municipal Council
  - Municipal Electors

- The major differences in the provisions of the various jurisdictions stem from precisely who among those listed above may initiate the dissolution process, and some conditions under which they may or must do so.

- There are at least five general models on which of those may initiate a dissolution process and the conditions under which they may do so.

Model 1: (Cabinet, Commissioner, Minister or Council)

- The first model entails the initiation of the dissolution of municipalities either by the Lieutenant Governor in Council, the municipal minister, a municipal commissioner, or a municipal council (e.g., Ontario).
- Ontario is the only province in which the statute explicitly provides all four of these officials, and most notably the provincial cabinet or a provincial municipal commissioner appointed by Cabinet or the Minister, with the authority to initiate a dissolution process. (See Ontario MA s. 24 and s. 25)

Model 2: (Municipal Minister, Municipal Council or Municipal Electors)

- The second major model authorizes any one of the following to initiate a dissolution process.
  - Municipal Minister
  - Municipal Council
  - Municipal Electors
- In the case of statutory provisions regarding municipal electors initiating a dissolution process, there is the proviso that it must entail a request or petition from at a certain percentage of the electorate which across generally ranges from least 10% to 30% percent of such electors (e.g., Alberta, Manitoba, Nova Scotia and Yukon).

Model 3: (Either by Municipal Minister or Council)

- The third model authorizes either the Minister or the municipal councils (e.g. PEI) to initiate the dissolution of any municipality.

Model 4: (Municipal Council)

- The fourth model explicitly recognizes only municipal councils to initiate a request for dissolution by submitting a request or petition either to the Minister (e.g., New Brunswick) or to cabinet (i.e., New Brunswick).

Model 5: (Ministerial Initiative Only)

- The fifth model explicitly authorizes only the Minister responsible for municipalities to initiate the dissolution of municipalities (e.g., Newfoundland, Northwest Territories).

KEY OPTIONS

Options Regarding Who Should be Authorized to Initiate Dissolution

- **Option 1:** Only Municipal Electors
- **Option 2:** Only Municipal Council
- **Option 3:** Only Municipal Minister
- **Option 4** : All or some of the above

Options Regarding Degree of Variation Among Types of Municipalities

- **Option 1:** No Variation
- **Option 2:** Variation

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether statutory provisions regarding who may initiate dissolution for the different types and sub-types of municipalities should be uniform; and**
  - **Whether any change is required in the authority (i.e., roles and responsibilities) of the following in initiating the dissolution of any types or sub-types of municipalities:**
    - **Municipal Electors,**
    - **Municipal Councils, and**
    - **Municipal Minister.**

KEY ISSUE

2.2 Objecting to Dissolution

KEY QUESTION

- *Who should be authorized to object to the dissolution of a municipality or municipalities?*

KEY FACTS

- There are some notable differences among the three core municipal statutes regarding who may object to a dissolution process:
  - Both *The Urban Municipality Act* and *The Northern Municipalities Act* state that any elector may object to a proposed dissolution.
  - *The Rural Municipality Act* contains no explicit provisions regarding either who may object to dissolution or what must be done in case anyone does.

- Moreover the statutes for urban and rural municipalities explicitly state that in cases where an objection has been filed the Minister shall establish processes for consulting the residents of the municipality. The process by which the Minister is to do so, however, is different in the two acts:
  - *The Urban Municipality Act* states that the Minister **shall** call a public meeting and appoint someone to conduct and report upon the public meeting.
  - *The Northern Municipalities Act* states that the Minister **may** call a vote of the electors on the issue and that the Minister shall consider the results of the vote, but is not bound by the results of vote.

- Clearly, municipal legislation is not consistent in identifying either:
  - Who may object to a municipal dissolution proposal; or
  - The processes for registering and airing such objections.

KEY VIEWS

- Most oral and written submissions to the Task Force were quite clear that they wanted opportunities for public participation in decisions regarding dissolution or any other form restructuring. This view was even shared by many of those who believed that many municipalities should be dissolved and that both the local and provincial governments because they no longer meet the incorporation criteria. Generally they favoured giving those affected by a dissolution both prior notice and the opportunity to express either their objections or their support. Despite the strong support for the right of those affected to object, there was not much discussion of the precise means to be used to ensure that they are able to do so.

Other Jurisdictions

- There are significant differences among various provinces on the nature and scope of public involvement in the dissolution processes.

- The major differences between them is on:
  - Who is responsible for ensuring public involvement; and
  - The form or means of public involvement.

- The models outlined below reveal that responsibility for ensuring that an opportunity for public involvement is provided rests with any one of the following:
  - Council
  - Minister
  - Municipal Board
  - Committee Appointed by the Minister

- The models outlined below also reveal that the form or means for public involvement includes:
  - Petitions by Electors
  - Hearings of Interest Individuals
  - Votes by Electors
  - Survey of Electors

Model 1: Council Must Provide Opportunity for Counter-Petition

- The first model requires that the council that has petitioned for dissolution must provide an opportunity for anyone to present a counter-petition (e.g., British Columbia).

Model 2: Minister May Hold Public Hearings

- The second model is permissive and states that the Minister may hold public hearings to consider the effect of the dissolution on local authorities (e.g., Alberta).

Model 3: Minister Must Hold Public Hearings

- The third model is prescriptive in that it stipulates that the Minister must or a committee appointed by the minister to hold public hearings to consider the effect of the dissolution on local authorities (e.g., Newfoundland for dissolution of towns). In Newfoundland, the hearing can be cancelled if no one has responded to the Committee's call for written or oral submissions within the specified period of time.

Model 4: Municipal Board Must Hold Public Hearing

- The fourth model stipulates that Municipal Board must hold public hearings to determine the merits and objections to the application before issuing a dissolution order by the Municipal Board (e.g., Ontario).

Model 5: Minister May Call Vote of Electors

- The fifth model is permissive and stipulates that the Minister may call for a vote of the electors on the question of dissolution (e.g., Alberta, and Saskatchewan's urban and northern municipalities).

- Whereas in Alberta there is no precondition for the Minister to call such a vote, in Saskatchewan the precondition in the case of urban and northern municipalities is that for the Minister to conduct such a vote a complaint must be lodged with the Minister on the dissolution. There is no explicit statutory provision requiring such a vote in the case of rural municipalities.

Model 6: Municipal Board May Call Vote of Electors

- The sixth model is permissive in that it stipulates that the Municipal Board may require the assent of the electors before proceeding with a dissolution order (Ontario).

Model 7: Municipal Board May Call Vote of Electors

- The seventh model is also permissive in that it stipulates that the Minister may conduct a survey of residents to determine if they wish to continue to have municipal status. The precondition is the failure to elect a council in the previous election. (e.g., Prince Edward Island).

KEY OPTIONS

Options Regarding Who May Object to the Dissolution Proposal

- **Option 1:** Only Municipal Electors
- **Option 2:** Only Municipal Council
- **Option 3:** Only Municipal Minister
- **Option 4:** All or some of the above

Options Regarding Public Involvement

- **Option 1:** Public Meeting
- **Option 2:** A Vote of the Electorate

Options Regarding Degree of Variation in Objections to Dissolution

- **Option 1**: No Variation
- **Option 2**: Variation

KEY DIRECTIONS

> **Consideration should be given to:**

- **Whether statutory provisions for objections to municipal dissolution proposals for all types and sub-types of municipalities should be uniform;**
- **Whether there should be any changes to the authority (i.e., roles and responsibilities) of any of the following for registering objections to dissolution proposals:**
  - **Municipal Electors,**
  - **Municipal Councils,**
  - **Municipal Minister;**
- **Whether municipal legislation should stipulate that public consultations on a proposed dissolution will entail:**
  - **Publication of the notice of proposal,**
  - **The holding of public meetings on the proposal, and**
  - **Reporting to the Minister results of public meetings;**
- **Whether legislation should allow ministers responsible for municipalities to invite comments from any authority or individual that they believe could be affected by a dissolution; and**
- **Whether plebiscite or referendum votes resulting from objections to dissolution proposals should be required only if significant objections regarding an incorporation proposal warrant such votes.**

KEY ISSUE

2.3 Approving Dissolution

KEY QUESTION

- *Who should have the authority to approve or order the dissolution of a municipality?*

KEY FACTS

- Until recently and depending on the municipal act governing the dissolution of a municipality, either the Minister or the Lieutenant Governor in Council could approve a dissolution application. With the amendments to these acts, it is now the Minister that has the ultimate authority in ordering the dissolution of a municipality.

- *The Northern Municipalities Act*, *The Rural Municipality Act* and *The Urban Municipality Act* all state that the Minister, by order, has the authority to approve dissolutions of municipalities.

Other Jurisdictions

- There are some significant differences among provinces on who may ultimately approve and order the dissolution of a municipality. There are at least four major models used by provinces to approve or order the dissolution of a municipality.

Model 1: Minister

- The first model authorizes the Minister to approve or order dissolution (e.g., NWT).

Model 2: Cabinet

- The second model authorizes Cabinet to approve or order dissolution (e.g., Alberta, BC, Manitoba, Newfoundland, and PEI).

Model 3: Municipal Board

- The third model authorizes the Municipal Board to approve or order dissolution (e.g., Ontario, Nova Scotia).

Model 4: Legislature

- The fourth model authorizes only the provincial legislature to approve or order dissolution. (e.g., New Brunswick). New Brunswick's legislation explicitly states that "A municipality shall not be dissolved except by special Act of the legislature." The legislation also stipulates that this particular requirement shall not apply to amalgamation, annexation, or decrement.

KEY OPTIONS

- **Option 1:** Ministerial Approval or Order
- **Option 2:** Cabinet Approval or Order
- **Option 3:** Municipal Board Approval or Order
- **Option 4:** Legislature Approval or Order

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether statutory provisions regarding the authority for approving the dissolution of all types and sub-types of municipalities should be uniform; and**
  - **Whether there should be any changes to the authority framework for approving the dissolution of municipalities.**

KEY ISSUE

2.4 Degree of Discretion in the Authority for Dissolution

KEY QUESTIONS

- *What degree of discretion should exist in the authority for dissolution of various types of municipalities?*

KEY FACTS

- Current municipal legislation grants the Minister considerable discretion both in initiating and approving the dissolution of municipalities. In the case of the urban and northern municipalities this is explicit and in the case of the rural municipalities this is implicit in the powers to amalgamate municipalities. The Minister may order dissolution either upon request of a municipality or if in his or her view if a municipality no longer meets its minimum population requirements and has no other options for reversion to a different municipal status.

- The issue of the degree of authority and discretion that anyone should have, and how they should use it, in the dissolution of municipalities is already very important in this province, and will become increasingly important in the future. That this is so one need only reflect on two sets of facts:
  - 1 city, 38 towns, 126 villages, and 2 northern hamlets no longer meet their minimum population criteria for incorporation;
  - Between December 1985 and March 1998, only 10 urban municipalities changed their status (i.e., village to hamlet), no other types of municipalities changed status.

KEY VIEWS

- Many oral and written submissions to the Task Force noted the fact that under the current system the dissolution of municipalities (like incorporation, reversion, annexation, and amalgamation) is discretionary rather than automatic. Many of those submissions also indicated that municipalities that no longer meet their minimum criteria for incorporation should be encouraged or even required either to dissolve, to revert to a different type of municipality, or to be annexed and amalgamated with surrounding municipalities. Indeed, many indicated that a major means to begin to consolidate the municipal sector would be by the provincial government assuming its exercising its authority in applying and enforcing existing legislative provisions to dissolve those municipalities that no longer meet their incorporation criteria.

Other Jurisdictions

- Generally, the municipal statutes of other jurisdictions in Canada do not stipulate explicitly when a municipality must be dissolved. In other words they do not stipulate precisely when the Minister, the Lieutenant Governor in Council, or the Municipal Board must dissolve a municipality. In those jurisdictions, as in Saskatchewan, the general nature of the statutory provisions are that they may do so under any one or more of the following circumstances: a municipality no longer meets its incorporation criteria; they are petitioned to do so either by municipal councils or electors or councils; or they believe that dissolution is in the local or provincial public interest.

KEY OPTIONS

- Option 1: No Discretion - The Minister must dissolve a municipality when it no longer meets its incorporation criteria.
- Option 2: Some Discretion - The Minister may decide not to dissolve a municipality so long as it remains within a certain percentage of its incorporation criteria (e.g., the population of the municipality is within 15% of its original incorporation criteria); or it is not in the public interest.
- Option 3: Complete Discretion - The Ministers may dissolve, at their own discretion, a municipality that no longer meets the incorporation criteria.

KEY DIRECTIONS

➢ Consideration should be given to:

- **Whether the degree of discretion regarding municipal dissolution should be minimized;**

- **Whether municipal legislation should include provisions that prescribe the following:**
  - **Acceptable ranges of deviation from incorporation criteria and/or dissolution criteria,**
  - **Timeframes for monitoring deviation from incorporation criteria and/or dissolution criteria,**
  - **Timeframes for applying and enforcing dissolution criteria; and**
  - **The mechanisms and instruments to be used in the dissolution process; and**

- **Whether there should be a statutory requirement that those municipalities that no longer meet their incorporation criteria, and for which reversion to a different type or sub-type is not an option, should be dissolved within a specified timeframe.**

KEY ISSUE

2.5 Criteria and Conditions for Dissolution

KEY QUESTION

➢ *What should be the criteria and conditions for dissolution?*

KEY FACTS

➢ There are significant differences among the three core municipal statutes regarding the basic criteria for dissolution:

- Both *The Urban Municipalities Act* and *The Northern Municipalities Act* state that the basic condition for dissolution is failure to continue to meet the basic incorporation criteria, which both for northern and urban municipalities is essentially the population criteria.
- *The Rural Municipality Act* contains no explicit provisions regarding the dissolution of rural municipalities. This is largely due to the fact that it does not contain any population criteria for incorporation or rural municipalities. The only provisions in the rural municipality act regarding reversion apply to organized hamlets. The statute clearly states that the basic condition for the dissolution or an organized hamlet is the absence of an active board in the previous two years. In effect, this means that positions are not filled or no meetings are held.

➢ In the case or urban and northern municipalities as well as organized hamlets the statutes indicate that ministers may undertake a dissolution when they deem that the 'dissolution is in the public interest'. Nevertheless, that principle is tied to the basic criteria for dissolution noted above because the precondition for acting on the public interest is as follows:

- In the case of urban and northern municipalities it is failure to meet the objective incorporation criteria (i.e. if the population of a municipality declines below a specific number).
- In the case of organized hamlet it is the subjective criteria of what constitutes an 'active organized hamlet board'.

➢ There are no specific criteria and conditions on matters such as population that would trigger automatic dissolution or at the very least a review to consider the need for or feasibility of dissolution for urban and northern municipalities.

➢ There are no criteria for the dissolution of a rural municipality, just as there is no incorporation criteria for a rural municipality. In the absence of any particular criteria either for dissolution and incorporation of rural municipalities both may occur at the complete discretion of the Minister.

➢ Oral and written submissions to the Task Force indicated that criteria and conditions should be established that clearly identifies when a municipality should be dissolved.

Other Jurisdictions

➢ Generally the criteria or conditions for dissolution in many other jurisdictions are not substantially different from those in Saskatchewan. Invariably, they also focus on incorporation criteria and either explicitly or implicitly on the principles of the 'public interest'. In some jurisdictions jurisdiction, however, there are some other significant criteria and conditions that revolve around issues of 'overall governance capacity' and 'feasibility'.

(a) Overall Governance Capacity Criteria

- Some municipal statutes identify overall governance capacity as one of the conditions or criterion that can trigger either a dissolution process or a dissolution order. Such conditions or criteria usually refer to governance capacity in one of two ways:
    - A general statement on to capacity to continue to operate, or
    - A specific reference to the ability to elect a council.

Ability to Operate, Insolvency, and Various Interests

- In at least two jurisdictions (i.e., Newfoundland and the Northwest Territories) the municipal legislation contains a general statement to the effect that dissolution may be ordered if a municipal corporation is unable to continue in operation for financial or other reasons. Newfoundland's legislation explicitly states that dissolution will be ordered if the Minister believes:
    - That the municipality is insolvent or is in imminent danger of insolvency;
    - It is in the best interest of the municipality; or
    - It is in the best interest of the municipality's creditors.

Ability to Elect a Council

- The notable examples of provinces in which there is a specific reference to the ability to elect a council are Saskatchewan and Prince Edward Island.

- In Saskatchewan, both *The Northern Municipalities Act* and *The Urban Municipality Act* state that a municipality **may** be dissolved if a municipality fails to elect a council. This is essentially the same condition that applies to organized hamlets under *The Rural Municipality Act*.

- Similarly, in Prince Edward Island a 1991 amendment to the municipal legislation states that failure to elect a council is the basis for considering dissolution. That province's legislation, however, has one additional important provision regarding public consultations prior to dissolution that is not contained in Saskatchewan's legislation. Its legislation states that where a municipality fails to hold an election the Minister may conduct a survey of residents to determine if they wish to continue to have municipal status. If the Minister finds that a majority of residents no longer wish to have municipal status, the Lieutenant Governor in Council may by order dissolve the municipality (An Act to Amend the Municipalities Act

(b) Feasibility Reports

- Several jurisdictions have statutory provisions requiring that either in initiating, reviewing, or ordering the dissolution of municipalities a report must be produced on the dissolution initiative. Such reports are either detailed accounts of the nature of the proposed dissolution, feasibility studies of the proposed dissolution, impact studies of the proposed dissolution, or some combination of those three. The statutes are generally not very precise on the exact nature, scope or format of such studies. Implicitly, at least, responsibility for such matters rests either with the Minister or the Lieutenant Governor in Council.

- In jurisdictions with legislation that contains such provisions there are at least three basic models regarding who is responsible for producing a dissolution report.

Model 1: Proponent of Dissolution Prepare the Report

- The first model states that the proponent of dissolution must prepare the report (e.g., Manitoba).

Model 2: Minister Prepares the Report

- The second model states that the Minister must file a dissolution report (e.g., Alberta and New Brunswick).

Model 3: Minister Orders a Commission to Prepare the Report

- The third model states that the Minister must order a dissolution report.
- An interesting variation on the third model is found in Newfoundland where the municipal act that came into force on January 1, 2000 states that the Minister shall:
    - Order the dissolution report,
    - Appoint a committee and chair of the committee to prepare the feasibility report using the powers of a commissioner under the Public Inquiries Act, and
    - Assign costs for the preparation of the report to the municipalities involved in the proposed dissolution.

KEY OPTIONS

Options Regarding Criteria for Municipal Dissolution

- **Option 1:** Only Population
- **Option 2:** Only Governance Capacity
- **Option 3:** Only the Ability to Elect A Council
- **Option 4:** Any combination of the above

Options Regarding Feasibility Report for Municipal Dissolution

- **Option 1:** No Feasibility Report
- **Option 2:** Feasibility Report

Options Regarding Degree of Variation in Dissolution Criteria

- **Option 1:** No Variation
- **Option 2**: Variation

KEY DIRECTIONS

- **Consideration should be given to:**
    - **Whether there should be standard and relatively uniform set of criteria or conditions for the dissolution of all types and sub-types of municipalities; and**
    - **Whether there should be a statutory provision requiring that a feasibility report must be produced prior to the dissolution of any municipality.**

KEY ISSUE

3. REVERSION PROCESSES

Introduction

- Reversion is a process by which one type of municipality is reclassified as another type of municipality. It entails dissolution as one type of municipality and (re) incorporation as another type of municipality.

KEY FOCUS

- The focus of this subsection is on the need for and nature of renewal to both to the authority and to the criteria and conditions for municipal reversion for various types of municipalities The categories of issues key issues related to reversion processes are similar to those for dissolution, namely:
    1. Initiating Dissolution
    2. Objecting to Dissolution
    3. Approving Dissolution
    4. Degree of Discretion in Authority for Dissolution
    5. Criteria and conditions for Reversion

KEY ISSUE

3.1 Initiating Reversion

KEY QUESTION

- *Who should be authorized to initiate the reversion of municipalities?*

KEY FACTS

- In Saskatchewan, reversion applies to all major types of urban (cities, towns, villages, and resort villages) and northern municipalities (towns, villages, hamlets, settlements) and to organized hamlets which may revert to hamlets within the rural municipalities. However, reversion does not apply to rural municipalities because there is only one type or class of rural municipalities.

- There are some notable differences among the three municipal Acts regarding who may initiate a reversion process:
    - The *Northern Municipalities Act* explicitly identifies only the Minister as the one who may initiate a reversion process.
    - The *Rural Municipality Act* identifies the Minister or the council of the rural municipality as the ones who may initiate a reversion process for organized hamlets; and
    - The *Urban Municipality Act* identifies the Minister, the municipal council, or the electors as the ones who may initiate a reversion process.

- None of the three Acts stipulates that the Minister must await a request either from councils or from the electors to initiate a reversion process. This would suggest that the Minister might have the authority to initiate reversions without such requests.

- The problem with the current situation is that there is differential treatment of the councils and electors of the three major classes of municipalities in terms of who may initiate a reversion process. Whereas *The Urban Municipality Act* authorizes the Minister, the municipal council, and the municipal electors to initiate reversions. ***The Northern Municipalities Act*** authorizes the Minister, and *The Rural Municipality Act* authorizes the Minister and in the case of the dissolution of an organized hamlet also the council of such an organized hamlet.

- There is little to suggest that such differential treatment is warranted or justified. The obvious question that emerges is why should authority for initiating reversion not be the same for all types of municipalities? Given the diversity in the reversion processes for various types of municipalities the electors and councillors are left wondering precisely what the reversion process is for their particular type of municipality. Lack of clarity on who has the authority, indeed the responsibility, for dissolution creates two types of problems:
  - It creates delays in undertaking reversions, and
  - It creates difficulty in apportioning political responsibility for reversion or, more precisely, for the lack of it.

Other Jurisdictions

- The explicit and detailed reversion processes in Saskatchewan's legislation are relatively unique. In other jurisdictions reversion is part of the general process of 'change in status' or 'change in classification'. For purposes of reversion or conversion most other jurisdictions rely on provisions regarding dissolution and (re) incorporation which are in effect the two major components of the reversion process. The statutes in these provinces provide that any one or more of the following may initiate a process that involves 'reversion' or dissolution from one type of municipality and re-incorporation to another municipal type:
  - Provincial Cabinet
  - Municipal Minister
  - Municipal Council
  - Municipal Electors

KEY VIEWS

- Many oral and written submissions to The Task Force suggested that mandatory reversion is necessary to reduce the number of municipalities that no longer meet their incorporation criteria. Generally such submissions revealed a preference for a more standardized and predictable reversion process. The general view was that those with the authority, indeed responsibility, to initiate reversions should ensure that they are undertaken.

KEY OPTIONS

Options Regarding Who Should be Authorized to Initiate Reversion

- **Option 1:** Only Municipal Electors
- **Option 2:** Only Municipal Council
- **Option 3:** Only Municipal Minister
- **Option 4** : Any or some combination of the above

Options Regarding Variation in Initiating Reversion

- Option 1: No Variation
- Option 2: Variation

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether the authority framework for who is authorized to initiate a municipal reversion should be relatively uniform for the different types and sub-types of municipalities; and**
  - **Whether there should be any changes in the authority (i.e., roles and responsibilities) of each of the following in initiating municipal reversion:**
    - **Municipal Electors,**
    - **Municipal Councils, and**
    - **Municipal Minister.**

KEY ISSUE

3.2 Objecting to Reversion

KEY QUESTION

- *Who should be able to object to the reversion of municipalities?*

KEY FACTS

- There are some notable differences among the three municipal Acts regarding explicit provisions on who may object to a reversion process:
  - *The Rural Municipality Act* contains no provisions regarding who may object to a reversion and what must be done in case anyone does; and
  - Both *The Urban Municipality Act* and *The Northern Municipalities Act* state that any elector may object to a proposed reversion.

- Moreover the statutes for urban and northern state that in cases where an objection has been filed, the Minister shall establish processes for consulting the residents of the municipality. The process by which the Minister is to do so, however, is different in the two acts:
  - ***The Urban Municipality Act*** states that the Minister shall call a public meeting and appoint someone to conduct and report upon the public meeting.
  - *The Northern Municipalities Act* states that the Minister may call a vote of the electors on the issue and that the Minister shall consider the results of the vote, but is not bound by the results of vote.

- The principal problem with the current situation is the lack of consistency across the municipal acts regarding the requirement for a public process in which objections to a proposed reversion can be heard.

KEY VIEWS

- Generally, oral and written submissions to the Task Force were silent regarding the specific issue of objections to municipal reversion. However, many submissions suggested, either explicitly or implicitly, that the reversion of municipalities to their appropriate status is needed, and the provincial government through the Municipal Minister must play a key role in any reversion process.

Other Jurisdictions

- To reiterate, unlike Saskatchewan, few jurisdictions have any provisions regarding reversion. Those that have provisions regarding the general process of 'change in status' or 'change in classification' including Alberta and British Columbia state that the Minister or the municipal council proposing the reversion shall provide an opportunity for public involvement through means such as:
  - Counter petitions opposing change in status (e.g., BC); and
  - Public meeting or hearings of interested individuals (e.g., Alberta).

- British Columbia's statutory provisions regarding counter-petitions in stipulate that if significant opposition is shown to a change in status, a council cannot proceed unless a public vote is taken that approves the proposed change in status.

- Alberta's process regarding change in status states that the Minister may invite comments on the proposed change in status from "all local authorities" and "from any other person" the Minister considers to be affected by the change.

KEY OPTIONS

- The key options regarding who should be able to object to reversion are essentially the same as those regarding municipal dissolution processes.

Options Regarding Who May Object to Reversion Proposals

- Option 1: Only Municipal Electors
- Option 2: Only Municipal Council
- Option 3: Only Municipal Minister
- Option 4: All or some of the above

Options Regarding Public Involvement

- Option 1: Petition/Counter-Petition
- Option 2: Public Notice and Meeting
- Option 3: A Vote of the Electorate

Options Regarding Variation Regarding Objecting to Reversion

- Option 1: No Variation
- Option 2: Variation

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether statutory provisions regarding objections to municipal reversion proposals should be the same for all types of municipalities;**
  - **Whether any changes are required to the authority (i.e., roles and responsibilities) of each of the following in objecting to the reversion of any municipalities:**
    - **Municipal Electors,**
    - **Municipal Council,**
    - **Municipal Minister;**
  - **Whether municipal legislation should continue to provide for public consultations concerning a reversion proposal that entail:**
    - **Publication of notice of intent to revert,**
    - **Public meetings to discuss the reversion proposal, and**
    - **Report to the Minister on public meetings;**
  - **Whether municipal ministers should be authorized or required to invite comments from any authority or individual they believe might be affected by a reversion; and**
  - **Whether plebiscite or referendum votes resulting from objections to reversion proposals should be required only if significant objections regarding a reversion proposal warrant such votes.**

KEY ISSUE

3.3 Approving Reversion

KEY QUESTION

- *Who should be authorized to approve the reversion of any municipalities?*

KEY FACTS

- *The Northern Municipalities Act*, *The Rural Municipality Act* and *The Urban Municipality Act* all state that the Minister, by order, has the authority to approve reversions of municipalities.

- There are essentially three basic models used by other jurisdictions for approving, ratifying and ordering a change in status or classification of a municipality.
  - Model 1: Minister
  - Model 2: Cabinet
  - Model 3: Municipal Board

KEY OPTIONS

- **Option 1:** Ministerial Approval or Order
- **Option 2:** Cabinet Approval, Ratification or Order
- **Option 3:** Municipal Board Approval or Order

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether statutory provisions regarding the authority for approving the reversion of all types and sub-types of municipalities should be the same; and**

  - **Whether there should be any changes to the authority for approving the reversion of municipalities.**

KEY ISSUE

3.4 Degree of Discretion in Authority for Reversion

KEY QUESTIONS

- *What degree of discretion should exist in authority for the reversion of various types of municipalities?*

KEY FACTS

- Current municipal legislation gives the Minister considerable discretion in deciding whether to initiate a reversion. For northern municipalities the Minister may order reversion when the conditions of incorporation no longer exist. For urban municipalities the Minister may order reversion if:
  - the population of the urban municipality is less than the minimum required for incorporation and
  - council or the electors requests reversion, or
  - the Minister is in the opinion that reversion is in the public interest.

- Almost 20% of Saskatchewan's municipalities no longer meet their minimum population criteria for incorporation. Over 40% of the villages and almost 25% of the towns no longer meet their minimum population criteria for incorporation.

Type of Municipality	Current Number	Minimum Population Criteria	# No Longer Meeting Criteria	# Surpassing Criteria For Next Municipal Type
Urban Municipalities				
• Cities	12	5000	1	
• Towns	145	500	38	1
• Villages	316	100	126	5
• Resort Villages	42	*	*	8
Total Urban	**515**		**165**	**14**
Rural Municipalities	297	None	-	-
Northern Municipalities				
• Northern Towns	2	500	0	0
• Northern Villages	13	100	0	10
• Northern Hamlets	9	50	2	4
Total North	**24**		**2**	**14**
TOTAL	**836**		**167**	**28**

KEY VIEWS

- Many oral and written submissions to the Task Force indicated that the enforcement of minimum criteria to maintain municipal status and mandatory reversion, conversion, or dissolution was important to renewing the municipal system.

Other Jurisdictions

- Municipal legislation in other provinces and territories provides considerable discretion on the part of the Minister and the cabinet in determining if and when either a reversion or a change in the status of a municipality must occur.

KEY OPTIONS

- **Option 1:** No Discretion - A municipality must be reverted when it no longer meets its incorporation criteria.
- **Option 2:** Limited Discretion - A municipality may not have to be reverted provided it so long as it remains within a certain percentage of its original population incorporation criteria.

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether the degree of discretion in approving the reversion of any municipalities should be minimized; and**
  - **Whether there should be statutory provisions for reversion comparable to those for dissolution regarding :**
    - **Acceptable ranges of deviation from the incorporation criteria,**
    - **Timeframes for monitoring deviation from the incorporation criteria,**
    - **Timeframes for applying and enforcing criteria and conditions for reversion, and**
    - **The mechanisms and instruments to be used in the reversion process.**

KEY ISSUE

3.5 Criteria and Conditions For Reversion

KEY QUESTIONS

- *What should be the criteria and/or conditions for reversion?*
- *What degree of uniformity should there be in the criteria and conditions for reversion?*

KEY FACTS

- There are significant differences among the three Acts regarding the basic criteria for reversion:
    - Both *The Urban Municipalities Act* and *The Northern Municipalities Act* state that the basic criteria for reversion is failure to continue to meet the basic incorporation criteria, which both for northern and urban municipalities is essentially the population criteria.
    - By contrast, *The Rural Municipality Act* states that the basic criterion for reversion is the absence of an active organized hamlet board in the previous two years.
- There are also differences in specifying the extent to which the Minister deems that 'reversion is in the public interest' as a criterion. This criterion is explicit in ***The Urban Municipality Act*** and *The Rural Municipality Act*, but at most only implicit in *The Northern Municipalities Act*.
- All three municipal Acts, however, indicate that the precondition for the Minister to exercise the judgement on whether reversion is in the public interest, is as follows:
    - In the case of urban and northern municipalities it is failure to meet the very objective criteria of the incorporation criteria.
    - In the case of organized hamlets in rural municipalities it is the potentially subjective criteria of what constitutes an 'active organized hamlet board'.

KEY PROBLEMS

- The problem here is that under the current system the reversion of municipalities (along with incorporation, dissolution, amalgamation, and annexation) is highly discretionary rather than relatively automatic. In other words, the question of whether a municipality should be reverted is left to the discretion of the municipal councils and the minister responsible for municipalities. There is no specific criteria or conditions on matters such as population that would trigger automatic reversion or at the very least a review process to consider the need for or feasibility of reversion.

KEY VIEWS

- Oral and written submissions to the Task Force reveal a general agreement that criteria and conditions that clearly help to determine when reversion of a municipality should occur should be established. Generally, in most other jurisdictions there are no specific criteria or special conditions triggering either an automatic reversion or the initiation of a reversion process. In some provinces, however, the statutes stipulate that to warrant a change in status there must be what the Minister deems to be a 'sufficient change' in population (e.g., Alberta, BC).

KEY OPTIONS

Options Regarding Criteria for Municipal Reversion

- **Option 1:** Status Quo - Below Minimum Population For Incorporation
- **Option 2:** Below Minimum or Percentage of Population For a Certain Period of Time (e.g., census periods)
- **Option 3:** Functional Capacity or Functions Performed
- **Option 4:** Governance or Management Capacity
- **Option 5:** Any combination of the above

Options Regarding Feasibility/Impact Report for Municipal Reversion

- **Option 1:** No Feasibility/Impact Report
- **Option 2:** Feasibility/Impact Report

Options Regarding Variation in Reversion Criteria

- **Option 1:** No Variation
- **Option 2**: Variation

KEY DIRECTIONS

> **Consideration should be given to:**

- **Whether there should be a standard and relatively uniform set of reversion criteria or conditions for the reversion all types and sub-types of municipalities; and**

- **Whether there should be a statutory provision requiring that a feasibility report must be produced prior to the reversion of any municipality.**

4. ANNEXATION PROCESSES

Introduction

KEY FOCUS

- Annexation is a process by which parts of municipalities and non-incorporated areas are joined to others municipalities.

- The focus of this subsection is on the need for and nature of renewal to the authority to initiate, object to and approve municipal annexation processes. The key issues regarding annexation processes are:
  1. Initiating Annexation
  2. Objecting to Annexation
  3. Approving Annexation

KEY IMPORTANCE

- A review of the annexation processes is important because the annexation process will likely be used more extensively as several major urban centers with rural municipalities continue to grow.

KEY ISSUE

4.1 Initiating Annexation

KEY QUESTION

- Who should be able to initiate annexations?

KEY FACTS

- There are some notable differences among the three core municipal statutes regarding who may initiate a annexation process:
  - The *Northern Municipalities Act* states that the residents of a district, by council resolution, may request that the Minister annex land from an adjacent municipality. The Minister may also order the annexation of district land if the council of an adjacent northern municipality requests it Moreover, residents of a district adjacent to a northern settlement may, by petition, request that the Minister annex them to a northern settlement.
  - The *Rural Municipality Act* states that the Minister may initiate annexations, and must publish a notice of the area to be withdrawn from, or annexed to, a municipality in the Gazette.
  - The *Urban Municipality Act* authorizes municipal councils to initiate an annexation initiative. It also states that they must publish their intent to alter their boundaries in two successive issues of a newspaper circulating in the affected area, and mail a notice both to all assessed owners in the area, and to all councils and school divisions affected by the boundary change.

- In short, whereas the *Northern Municipalities Act* explicitly authorizes the residents, by Council resolution, to petition the Minister for the annexation of land, The *Rural Municipality Act* exclusively authorizes the Minister to initiate annexations. *The Urban Municipality Act*, in contrast to the acts both for northern and rural municipalities, authorizes the municipal council to initiate an annexation proposal.

Other Jurisdictions

- Generally other provinces permit either one or more of the following to initiate amalgamations:
  - the electors (e.g., British Columbia);
  - municipal councils (e.g. Alberta, and British Columbia); or
  - the minister responsible for municipalities (e.g, British Columbia, New Brunswick).

- Generally, most jurisdictions tend to allow both the municipal councils and ministers to initiate annexations. Petition by electors is not as common.

KEY OPTIONS

Options Regarding Who Should be Authorized to Initiate Annexation

- **Option 1:** Only Municipal Electors
- **Option 2:** Only Municipal Council
- **Option 3:** Only Municipal Minister
- **Option 4** : All or some of the above

Options Regarding Degree of Variation Among Types of Municipalities

- **Option 1:** No Variation
- **Option 2:** Variation

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether the authority for initiating an annexation process for various types and sub-types of municipalities should be uniform; and**

  - **Whether there should be any changes to the authority (i.e., roles and responsibilities) of the following in initiating annexations involving various types and sub-types of municipalities:**
    - **Municipal Electors,**
    - **Municipal Council,**
    - **Municipal Minister, and**
    - **Other(s).**

KEY ISSUE

4.2 Objecting to Annexation

KEY QUESTION

- *Who should be able to object to the annexations?*

KEY FACTS

- There are no explicit provisions in municipal legislation indicating precisely who may object to an annexation proposal. Implicitly however, public hearings are to be held for affected residents to indicate their views concerning the annexation process. The provisions regarding such hearings, however, tend to differ in the various statutes.
  - The *Northern Municipalities Act*, however, states that the Minister may call a hearing where all assessed owners may express their views on an annexation proposal.
  - The *Urban Municipality Act* indicates that a Council must publish a notice declaring that a meeting is to be held to discuss boundary alterations if an objection is filed regarding the annexation proposal. In such cases, the Minister may request that the Saskatchewan Municipal Board review any alteration applications.
  - *The Rural Municipality Act* contains no provisions regarding who may object to an annexation proposal and the types of meetings or hearings that must or may be provided to hear objections.

Other Jurisdictions

- Alberta's *Municipal Government Act* reveals that the authority from which land is to be annexed must meet with the annexing municipality to discuss the proposal. However, if no agreement can be reached, then the Municipal Government Board will notify the Minister and affected authorities. The Board will then proceed to investigate the effect of the annexation proposal and conduct hearings to allow affected persons to appear and discuss the proposal.

- In British Columbia a council considering annexation may undertake a public vote on the issue, and must undertake a public vote of electors if at least 10% of the electors request this within 30 days of publication of notice to annex. The Minister may also direct that a vote be undertaken in the area being annexed.

- In Manitoba the annexation proposal must contain, among other details, a description of the consultation process with local authorities and those residents affected by the annexation proposal.

- In Prince Edward Island the Minister will direct the Land Use Commission to conduct a public hearing when reviewing annexation applications.

- In the Yukon a person objecting to the proposed annexation must file their objection with the Yukon Municipal Board within 60 days of the publication of the notice. The Municipal Board will then call a public meeting to discuss the proposed boundary changes.

KEY OPTIONS

Options Regarding Who May Object to Annexation Proposals

- **Option 1:** Only Municipal Electors
- **Option 2:** Only Municipal Council
- **Option 3:** Only Municipal Minister
- **Option 4:** All or any combination of the above

Options Regarding Public Consultation

- **Option 1:** Public Notice & Request for Petition (Counter-Petition)
- **Option 2:** Consultation(s) Between Affected Councils
- **Option 3:** Public Meeting(s)
- **Option 4:** A Vote of the Electorate in or both of the following:
  - In Area Being Annexed
  - In Municipality Undertaking Annexation

Options Regarding Variation on Objections to Annexation Proposals

- **Option 1**: No Variation
- **Option 2**: Variation

KEY DIRECTIONS

➢ **Consideration should be given to:**

- **Whether statutory provisions regarding objections to municipal annexation proposals should be the same for all types and sub-types of municipalities;**

- **Whether any changes are required regarding the authority (i.e., roles and responsibilities) of each of the following in objecting to any annexation initiatives of any municipalities:**
  - **Municipal Electors,**
  - **Municipal Councils, and**
  - **Municipal Minister;**

- **Whether municipal legislation should contain provisions for public consultations on annexation proposals that entail:**
  - **Publication of notice of intent to annex,**
  - **Public meetings to discuss the annexation proposal,**
  - **Report to the Minister on public meetings, and**
  - **Potential review by the Municipal Board;**

- **Whether municipal ministers should be authorized or required to invite comments from any authority or individual they believe might be affected by an annexation; and**

- **Whether plebiscite or referendum votes resulting from objections to annexation proposals should be required only if significant objections regarding an incorporation proposal warrant such votes.**

KEY ISSUE

4.3 Approving Annexation

KEY QUESTION

- *Who should be able to approve the annexation of part of a municipality to another municipality?*

KEY FACTS

- *The Rural Municipality Act, The Urban Municipality Act* and *The Northern Municipalities Act* all state that the authority for the approval of annexations rests with the Minister responsible for municipalities. This uniformity in the authority to approve annexations has been achieved through recent amendments that eliminated some differences in the role of the Lieutenant Governor in Council in the annexation, amalgamation and dissolution of various types of municipalities. Uniformity in the provisions for these particular facets of these processes raises important questions regarding whether uniformity should not be maximized in all facets of all the processes (i.e., incorporation, dissolution, reversion, annexation, and amalgamation).

Other Jurisdictions

- There are essentially three basic models used by other provinces for approving or ordering annexation proposals.
  - Model 1: Minister
  - Model 2: Cabinet
  - Model 3: Municipal Board

- In several jurisdictions the ultimate approval for annexation rests with the Lieutenant Governor in Council, on the recommendation of either or both the Minister and the Municipal Board (e.g., Alberta. Newfoundland, British Columbia).
- In Nova Scotia, however, the Nova Scotia Utility and Review Board may approve or order annexations.

KEY OPTIONS

- Option 1: Ministerial Approval or Order
- Option 2: Cabinet Approval or Order
- Option 3: Municipal Board Approval or Order

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether statutory provisions regarding the authority for approving annexations involving any types and sub-types of municipalities should be uniform; and**

  - **Whether there should be any changes to the authority for approving annexations involving any types or sub-types of municipalities.**

5. AMALGAMATION PROCESSES

Introduction

KEY FOCUS

- This subsection focuses on the need for and nature of renewal both to the authority for municipal amalgamation and to the criteria and conditions for amalgamation.

KEY IMPORTANCE

- A review of the amalgamation processes is important for many, if not all, of the reasons noted at the outset regarding the need to review all of the municipal processes being examined in this section of the report.

Provincial-Municipal Roundtable

- Furthermore, examining the need for and nature of renewal to the statutory provisions regarding the amalgamation processes is very important in light of the laudable substantial first steps that have been taken by the Municipal-Provincial Roundtable, involving the two municipal associations (SARM and SUMA) and the provincial government, to eliminate various statutory and financial impediments to voluntary amalgamation and restructuring. This subsection of the Final Report builds on the work of the Provincial-Municipal Roundtable amalgamation process by addressing some issues that to date are not contained in the paper of the Roundtable discussed below.

'Impediments to Voluntary Restructuring' Paper

- The paper '*Impediments to Voluntary Restructuring: A Review of the Legislative and Financial Impediments to Voluntary Restructuring.*' produced by the Municipal-Provincial Roundtable identified a set of statutory and financial' impediments' or 'obstacles' to voluntary amalgamation restructuring, including amalgamation.

- That document outlined a set of '**Options**' and a set of '**Items for Further Discussion**'.

- The **'Options'** include:
  - Provide Authority for Municipalities to Negotiate the Terms of Voluntary Restructuring with Other Municipalities
  - Provide Municipal Authority for Variable Mill Rates and the Establishment of Service Areas
  - Provide Legislative Authority for Municipalities to Levy Special Levies for Specific Purposes
  - Ensure Provincial Transfer Payments and Grants in Lieu of Taxes Flow Through to the New Municipality
  - Provide Transitional Support for Voluntary Municipal Amalgamations
  - Provide Legislative Authority to Accommodate Rural-Urban Amalgamations or the Designations of Organized Hamlets
  - Amend *The Rural Municipality Act, 1989* to include Urban Provisions (for the governance of 'urban areas' within their boundaries).
  - Provide for Divisional or Ward Representation in Amalgamated Municipalities

- The **'Items for Further Discussion'** include:
  - Ensure Provincial Utility Payments Flow Through to the New Municipality
  - Provide Legislative Authority to Accommodate Urban-Urban Amalgamations,
  - Expand Organized Hamlet Powers
  - Develop New Legislation
  - Provide for the Automatic Reversion or Dissolution of Municipalities
  - Provide Authority for Councils to Establish Representative Community Organizations
  - Apportionment of Responsibilities for Debt, Contaminated Sites, Infrastructure and Other Liabilities

- The Roundtable's report of June 2000 states that there are two major sets of 'impediments' that inhibit the process of voluntary municipal restructuring.

- The first set is financial impediments such as:
  - provincial-municipal transfer payments;
  - financial liabilities (identified and hidden);
  - differences in taxation rates between municipalities; and
  - differences in service provision costs between municipalities.

- The second set is statutory and regulatory impediments resulting both from what is contained and what is not contained in the existing statutory and regulatory frameworks.

- The most notable impediments in terms of what **is** contained in those frameworks are provisions regarding, among other things:
  - Limitations on the nature or types of municipalities that can amalgamate;
  - Limitations on the processes (i.e., authority, means and mechanisms) for automatic dissolution of municipalities;
  - Limitations in the nature of the apportionment of responsibilities for debt, contaminated sites, infrastructure and other liabilities; and
  - Limitations in the legal and administrative avenues for providing local public input with respect to important decisions.

- The most notable impediments in terms of what **is not** contained in those frameworks are provisions regarding, among other things:
  - The nature of provisions for what might be termed the 'automatic' reversion or dissolution of municipalities;
  - The nature of provisions on the governance frameworks for amalgamated municipalities;
  - The nature of provisions on the financial frameworks for amalgamated municipalities;
  - The nature of provisions on the powers, roles, and responsibilities of governments of an amalgamated municipality to impose certain types of levies for residents living in former urban municipalities;
  - The nature of provisions on the scope of the powers, roles and responsibilities of 'local authorities' within an amalgamated municipality; and
  - The nature of provisions on the scope of provincial transitional support.

- In light of the Roundtable's important work on eliminating obstacles to voluntary restructuring, the Task Force feels that this Final Report should deal with various statutory matters that must be addressed for amalgamating various types of municipalities.

- Accordingly, the Task Force's objective in this section of the report is to identify some issues and options that will make it possible to produce an appropriate framework for the municipal and provincial governments to foster and facilitate the amalgamation of municipalities.

- In dealing with this issue the Task Force finds considerable merit in the concluding statement of the Roundtable's report on eliminating impediments to voluntary restructuring:

> *"Many of the financial and legislative impediments outlined in this report require little effort to resolve. Although legislation may by amended to pave the way for voluntary municipal restructuring, there remains one other requirement. Municipalities and their residents must continue toward forging new formal partnerships with their neighbors to renew and revitalize municipal government in Saskatchewan." (p.33)*

KEY ISSUES

- The key issues related to municipal amalgamation processes are:

1. **Initiating Amalgamation**
2. **Objecting to Amalgamation**
3. **Approving Amalgamation**
4. **Degree of Discretion in Authority for Amalgamation**
5. **Criteria and Conditions for Amalgamation**

KEY ISSUE

5.1 Initiating Amalgamation

KEY QUESTION

- *Who should be authorized to initiate the amalgamation of municipalities?*

KEY FACTS

- The current legislative provisions regarding initiating amalgamation for each major type of municipality are as follows:
  - Clause 13(7)(b) of *The Urban Municipality Amendment Act, 2000* states that an amalgamation process may be initiated by the council of an urban municipality by sending an application to the Minister.
  - Subsection 14(1) of *The Urban Municipality Amendment Act, 2000* states that the Minister may initiate and order an amalgamation, even in the absence of an application from a municipal council.
  - *The Rural Municipality Act, 1989* is silent on whether a municipal council may initiate an amalgamation, though there is probably nothing in the Act explicitly prohibiting it from doing so.
  - Subsections 10(1) of *The Rural Municipality Act, 1989* states that "The minister, by order…may amalgamate municipalities by combining two or more municipalities into a single municipality."
  - *The Northern Municipalities Act* contains no explicit provisions regarding who may initiate amalgamations. Indeed, it contains no explicit provisions on amalgamation *per se*. The only closely related provisions are those regarding annexations and alteration of boundaries contained in section 17 and 18 of the Act.
  - Moreover, whereas *The Urban Municipality Act,1989* contains a relatively detailed section on procedures that municipal councils must follow when initiating an amalgamation, the legislation for rural and northern municipalities does not contain comparable provisions.

KEY PROBLEMS

- There is variance in the explicit provisions of the municipal statutes regarding who may initiate amalgamations. Whereas the legislation for urban municipalities explicitly identifies both the municipal councils and the Minister as having such authority, the legislation for rural and northern municipalities identifies the Minister but is silent regarding the municipal councils.

- Moreover, whereas the legislation for urban municipalities has detailed provisions for procedures that municipal councils must follow in initiating proposals for amalgamation, legislation for rural and northern municipalities does not contain comparable procedures.

- There does not seem to be any significant practical reason for the foregoing differences in statutory provisions on amalgamation processes for the three major types of municipalities.

- Another problem with the current statutory framework is that it does not include some provisions related to the initiation of amalgamation found in the statutes of some other jurisdictions that empower electors in such processes. One notable omission is the absence of explicit provision indicating that an amalgamation process may be initiated by a petition from electors either to the municipal council or to the minister.

KEY VIEWS

- The vast majority of oral and written submissions to the Task Force expressed support for 'voluntary amalgamation'. The prevailing view in those submissions was that the municipal councils and their ratepayers and residents should be the ones to decide whether to initiate the amalgamation of municipalities.

- Generally, however, the precise nature of the decision-making processes for 'voluntary amalgamation', including the precise process for initiating amalgamations was not addressed in detail. For example, the issue of whether individual municipal councils, ratepayers, or both should be able to initiate amalgamations.

- Those submissions also suggested that the provincial government should concentrate on two key matters to facilitate 'voluntary amalgamations':
  - Eliminate any obstacles (statutory and financial) to 'voluntary amalgamation'; and
  - Introduce incentives (statutory and financial) that would encourage municipalities and communities to engage in 'voluntary amalgamation'.

Other Jurisdictions

- Municipal legislation of most other jurisdictions states that the amalgamation process may be initiated either by a resolution of local councils or by the Minister.
- There are only two notable exceptions where individual ratepayers may petition directly to initiate an amalgamation or restructuring. Ontario's legislation also states that if 75 residents of an unorganized area petition the Minister a commission will be established to develop a proposal for the restructuring of municipalities in a given area. Similarly, Nova Scotia's legislation states explicitly that in addition to municipal councils and the Minister, electors may also initiate amalgamation processes directly without petitioning municipal councils. Nova Scotia's legislation states that the amalgamation process can be initiated when the Utility Review Board receives an application from the Minister, a municipality, or the greater of 15% or one hundred of the electors in the area proposed for amalgamation.

KEY OPTIONS

- **Options Regarding Authority to Initiate Amalgamation Process**
- **Option 1:**Only Municipal Electors
- **Option 2:**Only Municipal Council
- **Option 3:**Only the Municipal Minister
- **Option 4** :All or some combination of the above

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether the authority for initiating an amalgamation process for various types and sub-types of municipalities should be uniform; and**

  - **Whether there should be any changes to the authority (i.e., roles and responsibilities) of the following in initiating the amalgamation process involving various types and sub-types of municipalities:**
    - **Municipal Electors,**
    - **Municipal Council,**
    - **Municipal Minister, and**
    - **Other(s).**

KEY ISSUE

5.2 Objecting to Amalgamation

KEY QUESTION

- *Who should be authorized to object to the amalgamation?*

KEY FACTS

- Explicit statutory provisions related to objecting to the amalgamation of municipalities only refer to urban municipalities. Such provisions are contained in two statutes:
    - First, *The Urban Municipality Act, 1984* states that that public consultations by municipalities are required only if an objection is received following the issuance of the amalgamation notice. The Act also contains some detailed provisions regarding procedures that municipal councils initiating amalgamations must follow in giving notice of a proposed amalgamation. Indeed, it also contains provisions requiring councils to hold public meetings if an objection is filed.
    - Second, *The Municipal Board Act, 1988* states that the Board may, at its discretion, hold public hearings in reviewing an amalgamation proposal referred to it by the Minister pursuant to subsection 13(9) of *The Urban Municipality Act, 1984*. Such public hearings are intended to provide an opportunity for those who object to an amalgamation and well as those who support it to express their views.

- Municipal legislation does not contain uniform provisions regarding procedures related either to objections or public hearings on amalgamation. There are no provisions comparable to those found in the statute for urban municipalities regarding filing objections and holding public meetings in the statutes for either rural or northern municipalities. Those statutes are silent both on objections to amalgamations and also on public hearings related to amalgamations. The statute for Northern Municipalities merely requires the minister to consult with councils of a municipality before issuing an order to alter boundaries.

Other Jurisdictions

- Alberta's legislation contains provisions requiring those making an application for amalgamation to include a plan for consultations not only with other municipal and local government authorities but also with the public. It also states that if the Minister initiates an amalgamation:
    - The Minister **may** invite comments for the affected municipal authorities and/or the public; and
    - The Minister **may** conduct one or more meetings with the public to discuss the proposed amalgamation.

- Comparable provisions are found in Manitoba's legislation which states that regardless of whether amalgamations are initiated by Minister or a municipality, they must:
    - meet with the affected authorities and the public to discuss the proposal and negotiate in good faith, and
    - produce and submit a report to the Municipal Board that includes:
        (a) an overview of the negotiations and consultations undertaken,
        (b) a summary of views expressed,
        (c) any agreements made,
        (d) any amendments to the original amalgamation proposal, and
        (e) a listing and summary of any studies that they prepared on the proposed amalgamation.

KEY VIEWS

- Oral and written submissions to the Task Force indicated that there must be opportunities for local public involvement so that people may express either their objections to or support for amalgamation proposals.

KEY OPTIONS

Options Regarding Who May Object to an Amalgamation Application

- **Option 1** Only Municipal Electors of an Affected Municipality
- **Option 2** Only Municipal Council of an Affected Municipality
- **Option 3** Only the Municipal Minister
- **Option 4** All or some combination of the above

Options Regarding Public Consultation

- **Option 1:** Public Notice & Public Meeting
- **Option 2:** Petition/Counter-Petition
- **Option 3:** Vote of the Electorate(s)

Options Regarding Who Reviews Objections to Amalgamation

- **Option 1:** Only the Municipal Minister
- **Option 2:** Only a Commission
- **Option 3:** Only the Municipal Board

KEY DIRECTIONS

➢ Consideration should be given to:

- **Whether statutory provisions for objections to municipal amalgamation proposals should be the same for all types and sub-types of municipalities;**

- **Whether there should be any changes to the authority (i.e., roles and responsibilities) of any of the following for registering objections to amalgamation proposals:**
  - **Municipal Electors,**
  - **Municipal Councils,**
  - **Municipal Minister, and**
  - **Other(s).**

- **Whether municipal legislation should stipulate that public consultations on a proposed amalgamation will entail:**
  - **Publication of notice of the proposal to amalgamate,**
  - **The holding of public meetings on the proposal, and**
  - **Reporting to Minister results of public meeting;**

- **Whether legislation should allow ministers responsible for municipalities to invite comments from any authority or individual that they believe could be affected by an amalgamation; and**

- **Whether plebiscite or referendum votes resulting from objections to amalgamation proposals should be required only if significant objections regarding an amalgamation proposal warrant such votes.**

KEY ISSUE

5.3 Approving Amalgamation

KEY QUESTION

- *Who should be authorized to approve the amalgamation of municipalities?*

KEY FACTS

- The authority to approve and even order amalgamations for urban and rural municipalities rests with the Minister responsible for municipalities. Subsection 15(1) of *The Urban Municipalities Act*, and subsection 10(1) (e) of *The Rural Municipalities Act* explicitly authorize the Minister responsible for municipalities either to approve or order amalgamations.
- Saskatchewan's Municipal Board can only review amalgamation proposals that are referred to it by the Minister responsible for 'urban' municipalities, but cannot approve or reject them.

Other Jurisdictions

- There are significant differences among various provinces on the nature and scope of the authority to approve the amalgamation of municipal entities.

- The major differences between them is on:
  - Who is responsible for reviewing the amalgamation proposal and the processes for reviews; and
  - Who has ultimate authority in approving or rejecting an amalgamation proposal.

- Generally the authority for approving amalgamations rests either with the minister responsible for municipalities or the Lieutenant Governor in Council. There are at least two notable exceptions.

- One notable exception is found in Ontario where a commissioner appointed by the Minister, following a request for restructuring either from a municipal council or the residents living region, is authorized to order a restructuring which may include amalgamations.

- Another notable exception exists in Nova Scotia where Part XVI of the Municipal Act gives the Nova Scotia Utility and Review Board the power to approve (i.e., order) amalgamations. Unlike some other jurisdictions where such a board can only make recommendations to the Minister, it can order an amalgamation and its order is published in the Gazette and is enforceable by the courts. Indeed, even the Minister must apply to Board for any amalgamation. In addition to the Minister such applications may come from either a municipality, or 'the greater of ten per cent or one hundred of the electors in the area proposed to be amalgamated or annexed. In making its decision on amalgamations and annexations the Board has the authority to hold hearings, to allow input from all stakeholders affected by the proposed amalgamation, define the boundaries for the new municipality, and request that studies be undertaken to determine the financial implications of the amalgamation.

KEY PROBLEMS

- Although the authority framework for approving amalgamations is the same for urban and rural municipalities, it is still not the same for northern municipalities. Indeed, in the case of northern municipalities there is no explicit provision on that matter. The Minister's authority can only be inferred at best through the provisions for annexation and alteration of boundaries.

KEY VIEWS

- Oral and written submissions to the Task Force reflected a strong desire to have greater local authority in decisions regarding amalgamations, and to limit the authority of the Minister in approving, but particularly in ordering amalgamations.

KEY OPTIONS

Options Regarding Final Authority to Approve Amalgamation Proposals

- **Option 1**: Only the Municipal Electorate
- **Option 2**: Only the Municipal Councils
- **Option 3**:Only the Minister
- **Option 4**:Only a Commission
- **Option 5**:Only the Municipal Board
- **Option 6**:Only the Lieutenant Governor in Council
- **Option 7**:Only the Legislature
- **Option 8**: All or some combination of the above

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether statutory provisions regarding the authority for approving the amalgamation of all types and sub-types of municipalities should be uniform; and**
  - **Whether any changes should be made to the authority framework for approving the amalgamation of all types and sub-types of municipalities.**

KEY ISSUE

5.4 Degree of Discretion in Authority for Amalgamation

KEY QUESTIONS

- *What degree of discretion should exist in the authority for the amalgamation of various types and sub-types of municipalities?*

KEY FACTS

- The current legislation provides the Minister with extensive discretionary authority both for initiating and for approving amalgamations. Indeed, recent amendments have provided some uniformity in the authority and discretion of the Minister in the amalgamation of urban as well as rural municipalities. Both the urban and rural statutes now state that the Minister has the authority to initiate and approve amalgamations, but there is no explicit criteria listed for that purpose.

- *The Urban Municipality Act* states that the Minister may order the amalgamation of two or more municipalities and that any decisions concerning this action are binding on the affected parties. Again the Minister has extensive discretion in restructuring rural municipalities through amalgamation.

- In some jurisdictions the Minister is afforded considerable discretion in determining whether to proceed with an amalgamation application (e.g., Alberta, Ontario).

- In Nova Scotia the Municipal Board may decide to order the amalgamation of municipalities.

KEY PROBLEMS

- There is no mechanism in place that automatically initiates the amalgamation of municipalities. The amalgamation of municipalities, therefore, has been a rare occurrence in the province. Between June 1990 and December 1998 only one rural municipal amalgamation occurred and while the dissolution of several villages has occurred in the recent past, there has been no amalgamation within the urban municipal sector. Some municipalities continue to face population decline, a decreased capacity to provide adequate services to their resident, and a decreased capacity to meet their governance and management needs.

KEY VIEWS

- The Task Force heard many suggestions that municipalities who no longer meet their minimum population criteria for incorporation should be encouraged or even forced to revert to a different municipal status, to dissolve, or to amalgamate with other municipalities.

KEY OPTIONS

- **Option 1**: No Discretion --There is not any discretion in assessing the capacity
- **Option 2:** Discretion--There is extensive discretion in capacity of a municipality and initiating an amalgamation process

KEY DIRECTIONS

- **Consideration should be given to:**
  - **Whether the degree of discretion regarding municipal amalgamation should be minimized; and**
  - **Whether there should be a statutory requirement that those municipalities that no longer meet their incorporation criteria, and for which reversion to a different type or sub-type of municipality is not an option, should be dissolved and amalgamated with neighbouring municipalities within a specified timeframe.**

KEY ISSUE

5.5 Criteria and Conditions for Amalgamation

KEY QUESTIONS

- *What should be the criteria and conditions for amalgamation?*
- *What degree of uniformity should there be in the criteria and conditions for amalgamation?*

KEY FACTS

- There are not any criteria in the statutes to help decision-makers determine when it is appropriate to amalgamate municipalities. The only criteria or conditions seem to be whenever either the Minister or local councils or electors consider it appropriate and beneficial. Consequently, decisions regarding amalgamations tend to be made without specific criteria. Usually amalgamations stem from judgements regarding the relative merits of amalgamation or no amalgamation by municipal and provincial governments acting alone or together.

KEY PROBLEMS

- Without municipal amalgamation criteria, it is difficult to determine when it is in a community's interest to dissolve the municipality and join forces with their municipal neighbours to create a more vibrant and viable municipality.
  - Today 65% of all municipalities have a population that is less than500.
  - In 1999 167 municipalities no longer met their incorporation criteria.
  - In 1997, 218 or 47% of the towns and villages reported their councils were all or partly elected by acclamation, and 120 mayors were elected by acclamation. Three communities still had council vacancies after a second call for nominations.
  - In 1998 35 rural municipalities ran a deficit ranging from $677 to $208,142.
  - In 1999 17 resort villages ran deficits ranging from $18 to $51,071;
    37 towns ran deficits ranging from $334 to $$161,658; and
    128 villages had a deficit ranging from $97 to $80,739.
  - 251 (30%) of municipalities have an assessment base less than $2.5 million.

KEY VIEWS

- The Task Force heard many comments and received many submissions that made reference to the criteria and conditions under which municipalities should be encouraged or even forced to amalgamate. Some of these comments included:
  - Smaller urban villages (i.e., those no longer meeting minimum population criteria) should be taken under the wing of some larger authority;
  - Sparsely populated rural municipalities should be amalgamated to form larger municipal units;
  - Municipalities should either 'sink or swim' based on the performance of equal core services and functions within certain financial parameters;
  - Municipal governance structures must be larger to accommodate the horizontal integration of service delivery and to take advantage of the economic opportunities that size may generate;
  - Fairness and equity in the municipal system can only be achieved by creating larger more equal municipalities; and
  - Municipalities must have adequate and secure funding and the capacity to meet their service responsibilities.

KEY OPTIONS

- Option 1: Municipalities do not have to meet any criteria or conditions to amalgamate.
- Option 2: Municipalities should meet criteria and conditions to incorporate including any one or more of the following:
  - Population,
  - Assessment Base, and
  - Geographic Area.
- Option 3: Municipalities should meet criteria and conditions related to their capacity to do the following:
  - Perform a core set of functions, and
  - Foster and facilitate development.

KEY DIRECTIONS

➢ **Consideration should be given to:**

- **Whether municipal legislation should include both minimum incorporation criteria and minimum capacity requirements that would be relevant for amalgamated municipalities; and**
- **Whether municipal legislation should include provisions that stipulate that a review of 'minimum criteria and capacity' would have to be undertaken to determine whether dissolution and amalgamation would be a prudent option either:**
  - **When local or regional municipalities do not meet the basic incorporation criteria, or**
  - **When they do not have the requisite capacity to perform their functions without considerable outside assistance.**

KEY RATIONALE

- The proposed directions in the five key municipal processes outlined in this section of the report (i.e., incorporation, reversion, dissolution, annexation and amalgamation) would help accomplish the following:
    - Clarify the roles and responsibilities of municipal electors, municipal councils, and municipal ministers in relation to each of the five processes.
    - Make explicit in municipal legislation the authority to initiate, object to, and approve each of the five processes.
    - Standardize the authority and the processes to initiate, object to, and approve each of those five processes, by remove unnecessary differences in the same processes for different types of municipalities.
    - Clarify and make explicit the criteria and conditions that apply for all five municipal processes.
    - Improve awareness and understanding of the authority and processes for incorporation, dissolution, reversion, annexation and amalgamation among elected and appointed municipal officials and the general public.
    - Make those processes more consistent with proposed directions regarding simplifying legislation and improving democratic governance and public participation.
    - Remove some important impediments to voluntary restructuring.

- These processes have been and will continue to be of fundamental importance for everyone in Saskatchewan. Indeed, they are becoming increasingly important on a daily basis as communities and municipalities in this province are affected by various economic and demographic trends that are changing the landscape of this province. Some will continue to be affected primarily by the positive effects of such trends, and others will continue to be affected primarily by the negative effects of such trends. Improving the five processes outlined in this section of the report may improve the chances of improved coordination and cooperation between those experiencing the positive effects and those experiencing the negative effects of such changes.

XI. MUNICIPAL REGIONAL GOVERNANCE

Introduction

KEY FOCUS

- This section of the report examines the potential directions for establishing an 'enabling statutory framework' that would be required to foster and facilitate the creation and operation of certain forms of municipal regional governance in Saskatchewan.

- This section consists of three major subsections:
  1. Statutory Framework for Regional Governance
  2. Regional Governance in Saskatchewan
  3. Regional Governance in Other Jurisdictions

- The subsection on the "Statutory Framework for Regional Governance' makes some important observations and raises some important questions on the need for and nature of statutory and structural frameworks for regional governance in Saskatchewan.

- The subsection on 'Regional Governance in Saskatchewan' profiles the existing forms of regional governance in this province with a special focus on many of the major 'regional authorities' that have been established for that purpose.

- The subsection on 'Regional Governance in Other Jurisdictions' profiles the statutory frameworks of other provinces with special attention to the types of provisions that they contain regarding, among other things, the following:
  - Structural Frameworks for Regional Governance
  - Organizational Frameworks for Regional Governance
  - Functional Frameworks for Regional Governance
  - Financial Frameworks for Regional Governance
  - Processes Frameworks for Regional Governance

- The objective in this section of the report is **not** to produce and support a particular model of the nature or form of regional governance. Rather, the objective is twofold:
  - First, to propose the creation of a **statutory framework** that contains the requisite provisions and principles on the 'processes' for the creation and dissolution of regional governments or authorities.
  - Second, to profile some alternative **models of regional governance** in other provinces that might provide useful models for considering appropriate 'parameters' for various aspects of regional forms of municipal governance in this province.

- This section of the report merely provides the 'building blocks' both for establishing the statutory foundation for regional governance and for designing actual models of regional governance in the future.

- The precise nature or form of both the statutory and structural frameworks for any regional governance will be the product of how the municipal and provincial governments and the voters choose to use those building blocks.

- This section helps to answer at least two interrelated questions:
  - 'If a new statutory framework for municipal regional governance were to be developed in this province, what type of provisions and principles contained in the statutory frameworks of other jurisdictions should be adopted or adapted for that purpose?'
  - 'If it is deemed desirable to establish regional governance within any particular region in the province, are there existing models in other jurisdictions that should be adopted and adapted for that purpose?"

KEY IMPORTANCE

- This section of the report is a logical extension of the document produced in June 2000 by the Municipal-Provincial Roundtable involving the provincial government, SARM and SUMA, titled *Impediments to Voluntary Restructuring: A Review of the Legislative Impediments and Financial Impediments to Voluntary Municipal Restructuring in Saskatchewan*. The stated objective of that report is both to profile existing impediments to voluntary amalgamation and to outline various options and items for further discussion.

- Whereas the report of the Municipal-Provincial Roundtable contains a framework for eliminating some statutory obstacles to voluntary amalgamation, this section of this report contains some useful materials for developing a more comprehensive statutory basis regarding the 'processes' and 'parameters' for the creation and operation of formal and institutionalized regional municipal governments and regional authorities in Saskatchewan.

KEY THEMES

- The key themes in this section are as follows:
  - Saskatchewan has systems of regional governance that perform valuable functions;
  - Consideration should be given to whether Saskatchewan could improve on those systems of regional governance; and
  - In particular, consideration should be given to whether it would be useful to develop statutory frameworks for 'regional municipal governance' that would supplement, rather than supplant, the existing statutory frameworks for 'local municipal governance'.

- Other provinces provide some interesting and important models for Saskatchewan to examine in considering whether and how its system of regional governance could be improved.

KEY VIEWS

- ➢ Oral and written submission made to the Task Force devoted considerable attention to the issue of regional municipal governance. The most significant views on regional governance can be grouped into six major topics:
  1. Views on Statutory Framework For Regional Governance
  2. Views on Approaches for Increasing Regional Governance
  3. Views on Inter-municipal Cooperation
  4. Views on Consolidation of Municipalities into Larger Units
  5. Views on Creation of One-Tier and Two-Tier Regional Governments
  6. Views on Creation of Regional Authorities

- ➢ The views on each of these issues are summarized, in turn, below.

1. Views on Statutory Framework

- ➢ Whereas many of the oral and written submissions did not devote attention to whether the current statutory framework is adequate in outlining processes and parameters for regional governance, those that did were divided on the issue. Some stated either explicitly or implicitly that the current statutory framework was adequate for such purposes, others stated that it was inadequate, and the rest indicated that that they were unsure of its adequacy

2. Views on Approaches to Regional Governance

- ➢ Oral and written submissions to regional governance revealed a divergence of views on approaches to increasing and improving regionalization. Whereas the majority of such submissions favoured a regional approach for all initiatives related to regional municipal governance (i.e., inter-municipal cooperation, consolidation of small municipalities into larger municipalities, and the creation of regional governments), some favoured a mandatory approach.

- ➢ Submissions that favoured the voluntary approach indicated that common sense would dictate when and how it should take place. They also indicated that regionalization is a natural progression resulting from population loss and declining tax/property base and that it will occur when individual municipalities and municipal councils realize that they can no longer meet the needs and preferences of their ratepayers.

- ➢ Submissions that favoured a mandated approach indicated that the voluntary approach was not likely to yield any substantial regionalization either in the near or more distant future. Submissions favouring a mandated approach cited examples of municipal governments that are unwilling either to engage in certain important inter-municipal cooperation initiatives or to consolidate on a voluntary basis despite the fact that they have very small populations and cannot provide some essential services with the limited resources at their disposal.

- Many submissions indicated that instead of mandating various forms of regional governance, the provincial government could foster and facilitate greater cooperation by using the following interrelated means:
    - First, by eliminating various statutory and financial obstacles to inter-municipal cooperation and regionalization such as restrictive statutory provisions and regulations and inequities in cost-sharing formulas;
    - Second, by clarifying and streamlining the process of voluntary consolidation, reversion, dissolution, annexation, and amalgamation;
    - Third, by eliminating disincentives and uncertainties regarding the responsibility for potential liabilities financial and environmental liabilities of various municipalities;
    - Fourth, by ensuring representation and continued level of service delivery for residents of all municipalities that participate in regionalization initiatives; and
    - Fifth, by providing information and opportunities for discussion on the costs and benefits of regionalization;
    - Sixth, by performing a facilitation and mediation role for communities to overcome problems and disputes related to regionalization initiatives;
    - Seventh, by providing incentives for various forms of inter-municipal cooperation and regionalization.

- There was considerable consensus on all of those means, but not on the issue of providing incentives for various forms of inter-municipal cooperation and regionalization. Whereas some submissions indicated that the provincial government should provide incentives for such purposes, others indicated that incentives were neither needed nor appropriate.

3. Views on Inter-Municipal Cooperation

- Although many submissions indicated that there is already a substantial degree of inter-municipal cooperation among neighbouring municipalities for a wide variety of functions, services, and activities (e.g., fire protection, economic development, planning, recreation, transportation and waste management), others indicated that there is still considerable room for increased and improved cooperation.

4. Views on Consolidation

- Although many submissions indicated that the number of municipalities should not be reduced through consolidation, a substantial number of submissions indicated that they should be reduced through either minor or major consolidation. Whereas those favouring major consolidation tended to want consolidation of municipalities regardless of size or financial conditions, those favouring minor consolidation indicated that consolidation should be limited to the following situations:
    - The consolidation of small urban municipalities and adjacent rural municipalities; and
    - The consolidation of rural municipalities facing financial pressures with other rural municipalities.

5. View on Regional Governments

- Whereas many submissions did not favour either the one-tier or the two-tier system of regional municipal governments, and many others favoured only the one-tier system, very few favoured a two-tier system because it was deemed to contribute to excessive governance and administration.

6. Views on Regional Authorities

- Some submissions favoured the continued use of regional 'authorities' over the creation of regional 'governments'. Moreover, those who favoured regional 'authorities' supported either the consolidation of existing ones or the creation of new ones for various purposes wherever and whenever they are needed. Other submissions, however, did not favour either the consolidation of existing regional 'authorities' or the creation of new ones. They maintained that the creation of such 'authorities' amounts to the creation of a second tier of governance or administration and opposed it for three major reasons:
  - Because it would create more, not less, governance and administration;
  - Because it is difficult for regional authorities to operate in a way that will satisfy all member municipalities; and
  - Because member municipalities would not cooperate very effectively with such authorities.

- In summary, oral and written submissions to the Task Force reveal that there was a high degree of agreement on some issues regarding regional governance and a low degree of agreement on others.
- In particular, there was a low degree of agreement on the nature, scope, and forms of regional governance as well as the use of incentives for creating or operating such a form of governance. There was a high degree of agreement on the following:
  - Establishing regional governance through a 'voluntary approach';
  - Establishing regional governance wherever and whenever it is deemed to be necessary by communities in various regions; and
  - Eliminating statutory and financial impediments to regional governance.

KEY DEFINITION

- Regional governance can refer to an array of arrangements within a broader 'regional,' rather than a narrower 'local,' geographic area. Examples of such arrangements include:
  - One-tier regional municipal system with regional governments but without local municipal governments;
  - Two-tier regional municipal system with both local and regional municipal governments and/or possibly also regional municipal authorities;
  - Inter-municipal coordinating committees; and
  - Municipal and non-municipal (i.e., governmental or non-governmental) coordinating committees.

- The fundamental features of various forms of regional governance are that they entail joint approaches on the part of neighbouring municipal governments or communities within a given region to perform the basic functions of governance including, for example, any one or more of the following:
  - Joint Land-use Planning and Development
  - Joint Service planning and Provision
  - Joint Infrastructure Planning and Provision
  - Joint Administration
  - Joint Financing

- The defining feature of regional governance is not the particular structure of the municipal system, but the geographic basis of the governance or decision-making processes for each of the aforementioned functions.

- Regional 'municipal government' *per se* is only one form of regional governance.

- Regional municipal governments in Canada can be described as fully incorporated multi-purpose entities that are mandated to provide various municipal functions that are considered to be of common interest to all residents within a particular region (e.g., water, sewer, and policing). More precisely, regional governments possesses the authority to govern a territory and the inhabitants of that territory either on their own in the case of a one tier-system, or in conjunction with member municipalities and quasi-municipalities within their boundaries in the case of a two-tier system. Regional municipal 'authorities', in contrast to regional 'governments', are not fully incorporated municipalities. Instead, they are utilities established to perform particular service functions including some that regional municipal governments would normally perform.

1. STATUTORY FRAMEWORK FOR REGIONAL GOVERNANCE

- The objective in this subjection is to address the following question: 'Would it be beneficial to produce a more fully developed and integrated enabling statutory framework for regional governance?'

- That is a very important question for the future of municipal governance in this province. The issue of whether it would be useful to develop and enact an 'enabling statutory framework' for establishing regional municipal governments or authorities wherever and whenever it is deemed appropriate and beneficial for a any regional communities has traditionally been, and continues to be, both highly controversial and unresolved.

- The paper produced by the Provincial-Municipal Roundtable titled '*Impediments to Voluntary Restructuring: A Review of the Legislative* ***Impediments and Financial Impediments to Voluntary Municipal Restructuring in Saskatchewan*****'** in June 2000 is a useful first step in rectifying deficiencies in the current statutory and financial frameworks that constitute obstacles to regional governance.

- If implemented, the measures outlined in that paper should contribute substantially to eliminating most, if not all, the major statutory and financial impediments or obstacles to voluntary amalgamation.

- The question to consider, however, is whether in addition to the progress that the Municipal-Provincial Roundtable is making on ways to eliminate many statutory and financial impediments to voluntary amalgamation, there is more that can and should be done. Is there any merit, for example, to supplementing the existing statutory framework either with a special section on the 'processes and parameters' for regional governance, or with a separate statute that would do the same?

- If a more fully developed and integrated 'enabling statutory framework' for regional governance were developed and enacted, Saskatchewan would not be one of the few provinces without such a statutory framework. Saskatchewan's municipal statutes do not contain a fully developed and integrated framework for regional municipal governance comparable to that found in the municipal statutes of other provinces and territories identified below. In other words, Saskatchewan does not have a special municipal act or even part of a municipal act that outlines the 'processes and parameters' for regional municipal governance.

- Nevertheless, the current statutory framework contains important provisions for the dissolution, annexation, and amalgamation of local municipalities that may be used for the creation of larger municipal units that in effect would be 'one-tier' regional municipalities. In other words, if several existing neighbouring municipalities within a given region were to be dissolved and either annexed to or amalgamated with others a one-tier regional government could emerge. It is for this reason that, as suggested in another section of this report, the processes related to dissolution, annexation, and amalgamation should be reviewed to determine if they are appropriate and adequate for such purposes.

- Although the existing statutory provisions regarding those particular processes provide some means, though not necessarily the optimal means, for creating a system of one-tier regional municipal governance (i.e., larger units), they do not provide any means for the creation of a system of two-tier regional governance consisting of fully incorporated local and regional municipal governments.

- Indeed, there is no statutory basis for the creation of a two-tier system of regional municipal governance with fully incorporated municipal governments both at the local and regional levels that, at least for some communities and municipal government, may constitute a more desirable model than the one-tier model. The only alternative that local communities and local municipalities have for two-tier regional governance is to create regional 'authorities', rather than fully incorporated municipal 'governments', such as the existing ones identified in a table below. In short, under the current statutory framework a full-fledged upper-tier regional municipal 'government' cannot be created under the current system. Only upper-tier regional 'authorities' for certain purposes can be created.

- The major limitation in the current statutory framework, therefore, is not so much that one-tier regional governments cannot be created, but that the 'processes' and 'parameters' for creating them are not as clear and as fully developed and integrated as they could or should be. Such limitations are quite evident when compared to the statutory frameworks for regional governance in some other Canadian jurisdictions. Saskatchewan's statutory framework does not contain a fully developed and integrated set of provisions regarding important matters such as:
    - Who may initiate a regionalization processes and how?
    - Who may facilitate or mediate a regionalization process and how?
    - Who may raise objections to a regionalization process and how?
    - Who may review a regionalization processes and how?
    - Who may approve a regionalization process and how?

- Similarly, particularly in the case of the creation of two-tier regional governments, there is a lack of clarity on important issues such as:
  - What would be the criteria for incorporation of regional governments, and would they be different for regional governments in a one-tier system than for such governments in a two-tier system?
  - What would be the functions of regional governments?
  - What would be the means of financing regional governments?
  - What would be the size of the regional councils?
  - What would be the means for electing or selecting regional councils (e.g., wards vs. at large elections, appointed, etc.)?
  - What would be the nature of the management structure of regional governments?
  - What would be the relationship between the local and regional governments in a two-tier system?
  - What would be the relationship between regional governments and the provincial, federal and Aboriginal governments?

- These limitations to the existing statutory framework were discussed at considerable length during the debates on the proposed Districts Services Act (Bill 33) in 1996. Many municipal officials opposed Bill 33 because it was deemed redundant to existing statutory provisions. There was some validity to that argument regarding the creation of regional authorities and to some extent even regarding the creation of a one-tier system of regional municipal governance. However, there was considerably less validity, if any, to that argument regarding the creation of a full-fledged two-tier system of regional municipal governance. The statutory basis for creating a two-tier system municipal governance with fully incorporated 'regional municipal governments' does not exist. That precludes the use of one feasible model for structuring the municipal system that may be able to provide the balance between the virtues of 'local governance' and the virtues of 'regional governance' that many feel could be beneficial for this province.

- In summary, the current statutory framework has some major limitations in terms of the paucity of important detail it contains for the creation of a 'one-tier' municipal system of in which one municipal government would govern each region. Moreover, the current statutory framework is not sufficiently broad in scope for the creation of a two-tier municipal system with 'local' municipal governments as the first tier and 'regional' municipal governments as the second tier within each region.

- Among the missing provisions that limit the usefulness of the current statutory framework both for a one-tier and a two-tier system of regional municipal governance are those that would specify the precise roles and responsibilities for the creation, operation, and financing of regional entities of various stakeholders such as ratepayers and councils on the municipal side, and the Minister, Cabinet, Municipal Board, and Legislature on the provincial side. To be of more value the current statutory framework would have to be supplemented with provisions that would specify their respective roles and responsibilities for such matters, as well as for other important matters such as the allocation of assets and liabilities between them whenever regional governments are established.

2. REGIONAL GOVERNANCE IN SASKATCHEWAN

- Unlike several other provinces, Saskatchewan's municipal legislation does not contain a fully developed and integrated set of statutory provisions for important matters such as the procedures for either the creation and dissolution or the forms, functions and finances of regional municipal governments comparable to those of several other jurisdictions in Canada. Several provinces (e.g., Ontario, Quebec, British Columbia, Nova Scotia, and Newfoundland) have special sets of statutory provisions regarding the 'procedures' and 'parameters' for regional governance. Such statutory provisions provide an important basis for key matters such as the processes for the creation and dissolution of regional municipal governments and regional management authorities, as well as for their forms, functions, and finances.

- Furthermore, unlike several other provinces, Saskatchewan does not have fully incorporated 'regional municipal governments'. This is not to say, however, that Saskatchewan does not have some forms of regional municipal governance. Regional municipal governance in Saskatchewan takes two major forms:
  - The first form is an array of formal and informal bilateral and multilateral inter-municipal agreements either for delivering various services or for sharing facilities, equipment, and staff. Such agreements tend to exist both on a bilateral and a multilateral basis.
  - The second form is an array of regional municipal authorities, such as many of those identified below in the table of 'Selected Regional Authorities in Saskatchewan'. The table includes all forms of regional authorities and not merely municipal ones or ones that involve only municipalities. In the case of many, though by no means all, of those authorities municipal governments have a substantial role.

- Regional authorities involving municipalities tend to have the following characteristics:
  - They are created either by exclusively by member municipal governments, jointly by the member municipal governments and the provincial government and, in some instances, also the federal government, and various private sector entities.
  - They tend to perform advisory, coordinating, planning and development, and management roles;
  - They tend to perform core functions related to service delivery; infrastructure planning, development and maintenance; economic planning and development; and resources management.
  - They tend to be funded on cost-shared basis either exclusively among the member municipal governments or both among member municipal governments, the provincial government and, in some instances, also the federal government and private sector entities.

- To reiterate, the table below reveals that there is a substantial degree of regional governance in Saskatchewan that involves regional 'authorities' established to maximize effectiveness, efficiency and equity in performing various functions on a regional basis.

- The table also reveals, however, the absence of regional municipal 'governments' within the scope of the regional governance framework.

- Some logical questions that emerge here and which should continue to be addressed in the future are:
    - "Why regional authorities, but not regional governments?"
    - "When would it make sense either to supplement or supplant the multiplicity of regional municipal 'authorities', with regional municipal 'governments' comparable to those in some other provinces?"

Selected Regional Authorities in Saskatchewan

1. **Agriculture Authorities:**
   - (a) Agricultural Diversification and Development Boards (43).
   - (b) Agricultural Society Districts (4).
   - (c) Conservation & Development Areas Authorities (88).
   - (d) Irrigation Districts (29).
   - (e) Veterinary Service Districts (30).
   - (f) Watershed Associations (8).

2. **Economic Development Authorities:**
   - (a) Community Futures (14)
   - (b) Regional Economic Development Organizations (5).
   - (c) Regional Economic Development Authorities (28).

3. **Educational Authorities:**
   - (a) School Districts (101).
   - (b) Regional College Districts (8).

4. **Emergency and Protective Authorities:**
   - (a) 911 Districts
   - (b) Emergency Service Mutual Aid Areas (64).
   - (c) Police Commission Boards
   - (d) Provincial Emergency Resource Centers (11).

5. **Environmental Control Authorities:**
   - (a) Environmental Quality Committees (3).

6. **Health and Welfare Services:**
   - (a) Health Districts (32).
   - (b) Regional Inter-Sectoral Committees (8).

7. **Housing:**
   - (a) Housing Authorities (6 Territories comprising 283 Authorities).

8. **Land Use Authorities:**
   - (a) Urban Parks and Conservation Authorities (6).
   - (b) Planning Districts (17).

9. **Library Authorities:**
   - (a) Regional Library Boards (8).

10. **Recreational Authorities:**
    - (a) Regional Recreational Associations (23).
    - (b) Parks and Recreation Associations (8).

11. **Transportation Authorities:**
    - (a) Airport Authorities (2).
    - (b) Area Transportation Planning Committees (7).

12. **Waste Management Authorities:**
    - (a) Waste Management Committees (1).

KEY OPTIONS

3. REGIONAL GOVERNANCE IN OTHER JURISDICTIONS

- This sub-section provides an overview of several key facets of regional municipal governance in other Canadian jurisdictions. The focus is only on the most notable or distinct forms of regional municipal governments and authorities and does not deal with the multitude of other regional entities comparable to those identified for Saskatchewan in the previous section.

- This sub-section provides an overview of the following frameworks related to regional municipal governance in other jurisdictions in Canada either as outlined in their in their respective statutes or as they are in practice:
  - Structural Frameworks
  - Organizational Frameworks
  - Functional frameworks
  - Financial Frameworks
  - Processes Frameworks

3.1 Structural Frameworks of Regional Governance

- Regional governance in other jurisdictions takes either a one-tier form or a two-tier form.

- Examples of one-tier municipal systems consisting of only one regional municipal government, without any local municipal governments, that is responsible for governing the entire region include:
  - Ontario's newly created regional municipal governments.
  - Nova Scotia's newly created Halifax Regional Municipality and Cape Breton Regional Municipality both of which were established when the provincial government dissolved large and small neighbouring municipalities to create one-tier regional municipalities.

- Examples of two-tier systems consisting of both local municipalities, which make up the lower-tier, and an upper-tier regional government or authority include the following:
  - Ontario has used this model of regional government in the past for both its highly populated regional municipalities such as Ottawa-Carleton and Hamilton-Wentworth, and its less-populated counties such as Simcoe and Essex-Windsor.
  - Quebec has used the two-tier model of regional governance for its highly populated 'Urban Communities' such as the Montreal and Quebec City regions.
  - British Columbia has used the two-tier model for its Regional Districts that, in effect, are upper-tier regional authorities that perform certain functions needed by those living in local municipalities situated within their boundaries.

- In recent years the trend has been away from two-tier regional governance. Such a trend is clearly evident in the regionalization initiatives in Ontario and Nova Scotia. The Ontario government has decided to replace the two-tier regional governance system with a one-tier regional governance system as part of its efforts to reduce the number of municipalities in the province. Similarly, the Nova Scotia government has consolidated some neighbouring local municipalities to create regional municipalities in the Halifax and Cape Breton regions.

- Evidently, the Quebec government is predisposed to replace both existing local governments and two-tier regional governance systems with one-tier regional governance system as part of its ongoing effort to reduce the number of municipalities in that province.

3.2 Organizational Frameworks for Regional Governance

- This sub-section provides an overview of the organizational framework for regional governance in other jurisdictions with a special focus on the:
  - Size of regional councils or boards; and
  - Selection of members of regional councils or boards.

3.2.1 Size of Regional Councils and Boards

- Generally, provinces allow regional councils and boards to determine their precise size within a set range. In some cases either the precise number or the range is specified in legislation, in other cases the legislation empowers the Lieutenant Governor in Council to set it. Newfoundland's legislation, for example, specifies that if regional governments are to be established, the Lieutenant Governor in Council may prescribe the number of persons that may serve on the regional council.

3.2.2 Selection of Regional Council or Board Members and Chairs

- Generally, members of regional councils or boards are selected either by the voters or the member councils. Those that are selected voters run either on a ward or on an at-large basis.

(a) *Elected by Voters*

- Examples of regional entities governed by members who are elected by voters include Nova Scotia and Newfoundland.
  - Nova Scotia's legislation states that regional councillors are elected directly by voters on a ward basis, but the heads of the regional councils are elected on an at-large basis.
  - Newfoundland's legislation states that the Lieutenant Governor in Council may, by order, establish and change the number and boundaries of wards for a region and fix the number of councillors to be elected for each ward. Members of the regional council must choose, from among their membership, one councillor to be chairperson. Although the enabling legislation is in place, to date no regional governments or authorities have been created pursuant to it.

(b) Selected by Local Councils

- An example of regional entities governed by members who are selected by local councils that are members of the regional entity include:
  - Ontario's Regional Municipalities;
  - Quebec's Urban Communities, Regional County Municipalities, and the Kativik Regional Government;
  - Newfoundland's prospective regional municipal councils envisioned in its new municipal act.
- Newfoundland's legislation states that the Lieutenant Governor in Council may, by order, establish and change the number or proportion of councillors of a regional council that are to be appointed from elected councils of cities and towns in the region.

(c) Combination of Elected and Selected

- An example of regional entities consisting of a combination of elected and selected (i.e., selected by councils) officials is British Columbia's Regional Districts. These regional authorities are governed by a Board consisting of a combination of *elected councillors* that are selected by member municipal councils, and *elected representatives* who are directly elected by voters of unincorporated electoral areas.

(d) Selected by Regional Council

- Generally, members of the regional council select the head of the regional council. Examples include those for regional councils in Nova Scotia and any that might be established in Newfoundland.

(e) Appointed by Minister

- Examples of regional authorities with appointed boards are Alberta's Regional Services Commissions. Members to the Boards are initially appointed by the Minister of Municipal Affair but once the initial term expires, member municipalities of the Commission may appoint their own representatives.

3.2.3 Management Arrangements

- Generally regional governments and authorities have considerable authority and autonomy in determining their management arrangements. The only major limitation to their authority and autonomy is the duty to appoint some types of senior officials. For example:
  - Quebec's regional governments are required to appoint a Secretary-Treasurer;
  - Ontario's regional municipalities are required to appoint a Clerk, a Treasurer, and one or more Auditors;
  - Nova Scotia' regional municipalities are required to appoint a Clerk, a Treasurer, an Engineer, and an Auditor; and
  - British Columbia's Regional Districts are required to appoint a CAO, a Clerk, a Treasurer and an Auditor.

3.3 Functional Frameworks for Regional Governance

- Regional governments in Canada perform a variety of functions. The more common ones tend to be the following:
  - Land-use planning and development.
  - The planning, development, and maintenance of roads;
  - The distribution of water;
  - The collection and disposal of waste;
  - The collection and treatment of sewerage.

- The number and types of functions performed by regional governments vary across jurisdictions and in some instances they even differ both within a particular jurisdiction across various regions and a particular region over time. One reason for this is that some provinces grant regional governments considerable autonomy in deciding the function they will perform. Another reason for this is that where there are two-tier regional governments there might be a statutory provision authorizing regional government to perform any function that local municipal governments either do not or cannot perform. For example, 'regional governments' in Ontario have the authority to assume any function that member municipalities within their boundaries do not have the capacity to provide.

- Regional governance entities can be grouped into two major categories based on the number of functions they perform—single-function entities and multi-function entities. Although some regional authorities in Canada are only authorized to perform a single function, the majority of them are authorized to perform several functions. In some cases, regional entities that were originally created to perform a single function eventually began performing several functions. For example, British Columbia's Regional Districts were initially created to provide regional planning functions on behalf of municipalities within their regional boundaries. Over time, however, these entities have been granted the authority to provide several other functions including the distribution of water, the collection and disposal of sewage, fire protection and regulation, recreation, libraries, and animal control.

(a) *Functions of British Columbia's Regional Entities*

- British Columbia's *Municipal Act* states that a regional district is an incorporated regional entity with the authority to make rules for the provision, operation, and administration of a service, and for the management of property under its control. In listing their functions the Act states that regional districts are allowed to pass bylaws for the provision of various general services (e.g., planning), local services (e.g., the supply, treatment, storage, and distribution of water), and extended services (e.g., promotion of economic development). The functions of various regional districts are varied, but functions of a typical one might include:
    - Planning
    - Recreation and libraries
    - Fire protection and regulation
    - Street lighting
    - Solid waste disposal
    - Water supply and distribution
    - Sewage collection and disposal

(b) *Functions of Ontario's Regional Entities:*

- According to the *Regional Municipalities Act, 1990,* Ontario's Regional Municipalities may perform the following functions:
    - the addition or removal of roads form the regional road system;
    - planning for road construction, maintenance, and safety;
    - the establishment, construction, maintenance, operation, improvement and the extension of waterworks systems and the financing thereof relating to such supply and distribution of water;
    - the establishment, construction, maintenance, operation, improvement and the extension of sewage systems and the financing thereof relating to the collection and disposal of such sewage;
    - the establishment and control of a Police Board and a Regional Police Force for the purpose of enforcing the bylaws passed by the Regional Council and Area Municipalities;
    - the licensing, regulating, and governing of vehicles, the insurance of vehicles and their operators, and for licensing, regulating, and governing salvage shops, salvage yards, and dealers of second hand goods;
    - the appointment of a Regional Fire Co-ordinator who shall be responsible for the establishment of an emergency fire service plan and program for the regional area;
    - the establishment and operation, along with area municipalities, of a centralized communication system; and
    - the assumption of any or all of the waste management powers and facilities for all of its area municipalities.

(c) *Functions of Alberta's Regional Entities*

- Alberta's Regional Services Commissions *are mandated to provide various municipal infrastructure services in their area.* Alberta's *Municipal Act* states that a Regional Services Commission may provide any municipal services specified within the provincial regulation establishing. The commissions tend to be used to perform functions such as planning, hard and soft services, and assessment services on a region-wide basis both to member municipalities and other areas.

(d) Functions of Quebec's Regional Entities

1. Functions of Urban Communities:

- According to legislation Quebec's Urban Communities may perform the following functions:
  - air purification;
  - water purification;
  - waste recovery and recycling;
  - public health;
  - recreation and parks;
  - police;
  - coordination of emergency measures respecting the health and safety of persons or the protection of property;
  - public transportation;
  - the adoption of a development plan for its territory;
  - the assessment of immovables and places of businesses for its territory; and
  - improving the quality of water sites and promoting access thereto.

2. Functions of Regional County Municipalities:

- Regional County Municipalities must perform the following functions:
  - land use planning and development;
  - county watercourses;
  - property assessment;
  - sale of immovables; and
  - administration of unorganized territories.

- They may also provide the following functions:
  - development of unorganized territories;
  - bodies for industrial, commercial and tourist promotion;
  - industrial parks;
  - participation in local investment funds;
  - technical assistance for enterprises on their territory; and
  - assistance for nonprofit organizations devoted to economic promotion and development.

3. Functions of Kativik Regional Government:

- Quebec's Kativik Regional Government, which is an upper tier regional government in a two tier system in northern Quebec, is mandated to provide for:
  - local administration;
  - transport and communications;
  - police; and
  - labour market training.

(e) ***Functions of New Brunswick's Regional Entities***

- Local Service Districts in New Brunswick were created in 1967 to provide municipal services to the residents of unincorporated areas of the province. This can include any municipal service that municipalities would normally perform within their boundaries.

(f) ***Functions of Newfoundland's Regional Entities***

- Newfoundland's Municipal Act contains an extensive list of functions for any regional governments or authorities that may be established. The Act states that the cabinet may, subject to a feasibility study, determine which, if any of the functions listed below regional municipal governments or authorities will perform. The Act adds that when a regional government or authority performs those functions, they stop being the responsibility of a city, town, local service district committee or other body that had performed the designated function.

- The functions that may be performed, either in whole or in part, by a regional government either for the entire region or part of a region include:

  - the construction and operation of regional water supply systems, regional sewage disposal systems, regional storm drainage systems and regional solid waste disposal sites, including facilities designated in the order as regional facilities, and the charging of user fees on cities or municipalities benefited by those facilities;
  - the provision of regional police services, ambulance services, animal and dog control, and other similar services;
  - the provision, subject to the *Urban and Rural Planning Act*, of regional planning, local area planning in areas outside the jurisdiction of towns and cities within the region, joint planning and development control along protected roads, in protected areas and other designated areas within the region;
  - the undertaking of another municipal function that a municipality or city performs or is permitted to perform under this Act by agreement with municipalities or cities subject to the recovery of the full cost from the municipality or city; and
  - the provision, by agreement with municipalities or cities, subject to the recovery of the full cost from the municipality or city, of:
    - (i) contract services,
    - (ii) tax billing and collection services,
    - (iii) engineering services,
    - (iv) management consulting services,
    - (v) data processing, and
    - (vi) other technical and administrative services that may be required by municipalities.

3.4 Financial Frameworks for Regional Governance

- Generally regional municipal governments and authorities have accesses to a variety of revenue sources comparable to those of local municipalities.

(a) Property Taxes

- The property tax is a major revenue source for one-tier regional governments. In two-tier systems, generally the upper tier councils or boards are prohibited from levying and collecting property taxes directly on their own. However, as explained below, they are allowed to request that a local municipality add a levy to the property tax bill to cover the cost of providing a particular service to ratepayers.

(b) Service Levies on Residents

- Levies on residents are used extensively both by regional governments and regional authorities. Generally, the levies are imposed by the regional entities but added to the local property tax bill by local municipalities who collect them and submit them to the regional entities. A case in point is British Columbia's Regional Districts.

(c) Levies on Local Municipalities

- Another major source of revenues for some regional entities in a two-tier system is levies on local municipalities. Such levies are based on requisitions by the regional entity on local municipalities either for general operating costs or for the cost of providing certain services. Generally the contributions are based on a per capita formula that is either specified in legislation or in a bylaw. Ontario's legislation, for instance, indicates that the upper-tier Regional Council may, by bylaw, raise revenues by special levy or levies, against one or more area municipalities for, among other things, the distribution of water and the collection of waste.

(d) Licensing Fees, Fines and Penalties

- Another source of revenue for some regional authorities is the monies collected from issuing licensing fees, fines, and penalties.

(e) Investments

- Another source of revenue for some regional authorities is returns on investments. Some regional entities are permitted to use own-sources revenues to invest in securities or any other approved funds.

(f) Bonds

- Another source of revenue for some regional authorities is to issue bonds. They are permitted to issue bonds for certain capital and operating expenditures.

(g) Provincial Grants

- Another major source of revenues for regional entities is provincial and federal government grants. This includes both various infrastructure and service delivery grants, and grants-in-lieu of taxes to those that have the authority to impose property taxes. In some instances such grants are given to cover basic operating and capital costs. In Alberta the provincial cabinet provides the Regional Services Commissions an amount that will enable them to meet the authorized capital and operating expenditures that it considers to be required for the development and operation of their services and facilities. Such sums may be paid by the provincial government in the form of a grant, advance, loan, or by the purchase of securities related to any borrowing by the commission.

3.5 Processes Frameworks for Regional Governance

- Provinces with regional municipal governments and authorities have included a set of provisions within their statutes regarding the 'processes' for their creation and dissolution. Such provisions are usually included either in a general or in a specific statute of the provincial legislature.

- The relevant statutes not only states who may create and dissolve regional governments and authorities, but also the procedures that they must follow for that purpose. More specifically, they usually stipulate who possesses the authority to initiate, review, object to, and approve the creation or dissolution of regional governments and authorities and the means by which they must do so.

- Although all jurisdictions with regional municipal governments and authorities have included provisions regarding the authority frameworks for creating them, evidently none has included a set of criteria (e.g., minimum population, minimum assessment base, or minimum geographic area) that must be met in creating and dissolving them.

- The focus in the remainder of this subsection is on some general models of regionalization processes that currently exist in other jurisdictions in Canada.

3.5.1 Overview of Regionalization Processes in Other Jurisdictions

- There are at least three key elements of the regionalization processes of other jurisdictions that are important to profile here:
  - Authority for Regionalization
  - Mechanisms and Instruments for Regionalization
  - Stages for Regionalization

- The following overview of the regionalilzation processes in selected provinces reveals some important features regarding each of those elements listed above.

(a) Authority for Regionalization Processes:

- First, the overview of the regionalization processes in various provinces reveals that it is useful to distinguish between 'authority to initiate' and 'authority to approve' them. Generally authority for those two facets of regionalization may rest with any one or more of the following: the provincial minister responsible for municipalities and the provincial cabinet, the local municipal councils, and the local electorate. Invariably, the authority of the local councils and the local electorate is limited to initiating such processes and at most providing what is tantamount to preliminary ratification of regionalization initiatives. However, the final ratification and approval for such initiatives generally rests with provincial ministers and cabinets. Even in cases where resolutions of local councils or plebiscites of the local electorate are either required or permitted, generally they are not the authoritative instruments in establishing or not establishing municipal regional governments or authorities. The authoritative instruments are provincial ministerial orders, cabinet orders and, of course, any legislation that may enacted by the provincial legislature. An interesting exception is found in Ontario where if a restructuring initiative that entails regional governance is approved by local councils or electors in the ways prescribed in legislation, then the minister must implement it. Moreover, in Ontario, an order for restructuring and establishing a regional governance may be issued by any commissioner appointed by the minister to produce a restructuring proposal for a given locality.

(a) ***Stages of Regionalization Processes:***

- Second, the overview reveals that provincial governments have considerable discretion in determining whether regionalization processes will be either one-stage or multi-stage processes. In the case of the one-stage processes they have the authority to decide whether the regionalization process will entail only a ministerial order, a cabinet order, or at their discretion possibly a statute passed by the legislature. In the case of a multi-stage processes generally they have considerable authority in deciding whether the regionalization process will entail several stages such as the following: the preparation of a regionalization proposal; a review of a proposal that may or may not include public hearings; a preliminary ratification of the proposal either by local councils or the local electorate; and final approval by the provincial minister, provincial cabinet or, at their discretion, possibly also the provincial legislature.

(b) Mechanisms and Instruments for Regionalization Processes:

- Third, the overview of regionalization processes reveals that there is an array of mechanism and instruments that may be used in regionalilzation processes. Key mechanisms include the use of special committees and commissions established for various purposes including reviewing a particular regionalization proposal, developing a proposal for regionalization, and holding public hearings on any regionalization proposal. Key instruments for regionalization processes include formal and fully developed regionalization proposals, feasibility studies, and commissioned reports. Both in the case of mechanisms and instruments, provincial ministers responsible for municipalities and provincial cabinets have considerable discretion on their use subject to certain limitation in the statutes.

3.5.2 Regionalization Processes in Selected Jurisdictions in Canada

Newfoundland

- Newfoundland's Bill 14, An Act Respecting Municipalities, states that the process for creating regional municipal entities is as follows:

304 (1) the Lieutenant-Governor in Council may, by order, on the recommendation of the minister, and subject to a feasibility report being conducted under section 308,
(i) establish an area, or areas, in the province as a region;
(ii) amalgamate regions and annex areas to regions;
(iii) establish and alter the boundaries of regions; and
(iv) disestablish a region.

308 (1) The minister shall order the preparation of a feasibility report in the prescribed form before his or her making a recommendation for an order of the Lieutenant-Governor in Council under section 304 and shall appoint the number of persons that the minister thinks are necessary in order to prepare the report.

(2) The persons conducting the feasibility report shall have the powers of a commissioner under the Public Inquiries Act.

(3) The person conducting the feasibility report shall hold a public hearing in all cases in relation to actions described in paragraphs 304(1)(a) to (d) and shall, where reasonable, hold the hearing in the proposed region or in the area or region affected.

309. (1) Before the ordering of a feasibility report by the minister under section 308, the minister shall publish a notice of his or her intent to do so in a newspaper having a general circulation in the area affected by the feasibility report.

(2) Where a notice of intent is to be publicized by the minister under subsection (1) that directly affects a city, town or region, the minister shall give prior notification of his or her intent to so publish it to the councils of the city, town or region.

Nova Scotia

- Nova Scotia's new ***Municipal Government Act*** contains the following provisions regarding the process for creating regional municipalities.

372 (1) The [Utility and Review] Board may, when requested by a majority of councils of the municipal units in a county, undertake a study of the form of municipal governments in the county to determine whether a regional municipality would be in the interests of the people of the county.

(2) Where
(a) a study of the form of municipal government in a county to determine whether a regional municipality would be in the interests of the people of the county has been undertaken , whether the study was undertaken by the Minister or was otherwise prepared; and
(b) a majority of the councils of the municipal units in the county request that a regional municipality be established for the county,
the Governor in Council may, on the recommendation of the Minister, order that a regional municipality be established for the county.

Quebec

- Key provisions in Quebec's *An Act Respecting Municipal Territorial Organization* for creating Regional County Municipalities are as follows:

  (a) the government may, by order, constitute a regional county municipality;

  (b) before recommending to the Government the constitution of a regional county municipality, the Minister of Municipal Affairs shall transmit to each local municipality whose territory is comprised in that of the proposed regional county municipality a document setting out the elements which he proposes to include in the order;

  (c) not later than 45 days after receiving the document, any local municipality may submit its opinion on the proposal to the minister in writing;

  (d) any person may submit his or her objection to the proposal to the Minister within 30 days of publication of the notice;

  (e) the Commission municipale du Quebec shall, at the Minister's request, hold a public hearing on the proposal;

  (f) the Minister may order the consultation of the qualified voters of either all the local municipalities whose territories is comprised in that of the proposed RCM, or of one or several of them; and

  (g) the consultation shall be made by way of a referendum poll, held on the date fixed by the minister.

British Columbia

➢ Key provisions related to the process for creating British Columbia's regional districts contained in the *Municipal Act are as follows:*

776 On the recommendation of the minister, the Lieutenant Governor in Council may, by the issue of letters patent, incorporate the residents of an area into a regional district for the purpose of exercising powers conferred on the regional district;

777 (1) he letters patent incorporating a regional district must specify the following:
(i) the name and boundaries of a regional district;
(ii) the municipalities and electoral areas that comprise the regional district;
(iii) the boundaries of each electoral area in the regional district;
(iv) the voting unit for the regional district;
(v) the last date for appointment of municipal directors to the first board;
(vi) the time and manner of the first election of electoral area directors; (vii) the chief election officer;
(viii) the sums that may be borrowed to meet the current lawful expenditures of the regional district in the year of incorporation, and if considered necessary, for the next year;
(ix) the powers, obligations and duties, if any of a municipality that are transferred to the exclusive jurisdiction of the regional district; and
(x) any other provisions and conditions the Lieutenant Governor in Council considers necessary or advisable.

780 (1) On the recommendation of the minister, the Lieutenant Governor in Council may, by the issue of the letters patent, or by the repeal of existing letter patent and the issue of new letters patent, as necessary, may

- *(a) amalgamate 2 or more regional districts,*
- *(b) alter the boundaries of 2 or more adjoining regional districts by reducing the area of one and increasing the area of another by the inclusion of the area withdrawn into the district that is increased, or*
- *(c) divide a regional district into two or more regional districts.*

Ontario

- Ontario's *Savings and Restructuring Act, 1996* (Bill 26) contains two important sets of provisions regarding municipal restructuring in section 25 of that statute that may result in regional governance.

- The first set of provisions, contained in sub-section 25.2(2), focus on restructuring and regional governance as a product of local initiative and local consensus. The key provisions for that purpose are as follows:

25 (2) A municipality or local body in a locality may, subject to subsection (3), make a restructuring proposal to restructure municipalities and unorganized territory in the locality by submitting to the Minister a report containing,

- (a) *a description of the restructuring proposal in a form and in such detail as the Minister may require; and*
- (b) *proof in a form satisfactory to the Minister that,*
  - *(i) the restructuring proposal has the prescribed degree of support of the prescribed municipalities and local bodies in the locality,*
  - *(ii) the support was determined in the prescribed manner, and*
  - *(iii) the municipalities and local bodies which support the restructuring proposal meet the prescribed criteria.*

(3) A restructuring proposal shall not provide for a type of restructuring other than a prescribed type of restructuring.

(4) If a restructuring proposal and report under subsection (2) meet the requirements of this section, the Minister shall, by order implement the restructuring proposal in accordance with the regulations made under subsection (11).

(5) The Minister shall not make an order under subsection (4) to implement the restructuring proposal in a locality if any part of the locality is in a locality for which a commission has been established under section 25(3).

- The second set of provisions, contained in sub-sections 25.2(11) and (12) and various sub-sections of section 25.3, focus on restructuring and regional governance as a product of local initiative but in the absence of a fully developed proposal and possibly also the absence of a local consensus. In such a situation the Minister may establish a commission that is mandated not only not only to produce a restructuring proposal, but also to order it. The key provisions for that purpose are as follows:

25.2(11) Despite any Act, the Lieutenant Governor in Council may make regulations setting out the powers that may be exercised by the Minister or a commission established under section 25(3) in implementing a restructuring proposal.

(12) An order made of the Minister or commission implementing a restructuring proposal prevails over any Act or regulation with which it conflicts so long as the order is consistent with the regulations made under subsection (11).

25.3(1) The Minister may establish a commission on or before December 31, 1999 at the request of a municipality in a locality or at the request of a municipality in a locality or at the request of 75 or more residents of an unorganized territory in a locality. The purpose of the commission is to develop a proposal for restructuring the municipalities and unorganized territories in the locality or in such greater areas as the minister may prescribe.

(2) The commission shall develop a restructuring proposal for the prescribed locality or for such part of it as the commission considers advisable.
(3) A restructuring proposal shall not provide for a type of restructuring other than a prescribed type of restructuring.
(4) The commission shall consult with each municipality in the prescribed locality when developing the restructuring proposal and may consult with such other bodies as the commission considers appropriate.
(5) The commission shall prepare a draft of the restructuring proposal and shall give a copy of the draft to each municipality in the prescribed locality and make it available for inspection by members of the public in the prescribed locality.
(6) The commission shall hold not at least one public meeting at which any person who attends is given an opportunity to make representations about the draft.
(7) The commission shall invite written submissions about the draft and shall establish a deadline for receiving them. The commission shall make the submissions available for public inspection by each municipality and by members of the public in the prescribed locality.
(8) The commission shall notify each municipality in the prescribed locality of its opportunity to make representations....
(9) The commission shall give notice to the public in the prescribed locality advising them of the opportunity to...inspect the draft...make representations... and inspect the written submissions received by the commission.
(10) After considering the representations and submissions about the draft the commission shall finalize the restructuring proposal and shall give a copy of it to each municipality in the prescribed locality and make it available for inspection by members of the public in the prescribed locality....

(13) The commission may make orders to implement the restructuring proposal. For the purposes of implementing the proposal, the commission has the powers under regulations made under subsection 25.2(11).

- Subsequent provisions in that statute authorize the minister to establish various other principles and procedures for restructuring purposes.

Yukon

- Yukon has an interesting set of statutory provisions that explicitly sanctions the regional governance involving municipalities and various other governments, including Aboriginal governments. The statutory provisions are designed to sanction the creation of common or joint 'administrative' or 'planning' authorities both either at the regional or local level that would operate in an intergovernmental context. The Municipal Act states:

27. (1) Municipalities may establish with other municipalities, Yukon First Nations, the Government of Canada, and the Government of the Yukon, common administrative or planning structures within a community, region, or area of the Yukon; and these structures shall

(a) remain under the control of the participating governments according to the process they agree on, and

(b) include direct representation by the participating governments.

(2) Municipalities may agree to delegate administrative responsibilities that are within their governing powers to a common administrative and planning structure established under subsection (1).

28. In Consultation with the participating governments, the Commissioner in Executive Council may make regulations respecting the establishment and operation of regional structures under this Act.

KEY DIRECTIONS

4. DIRECTIONS ON REGIONAL GOVERNANCE

4.1 Statutory Basis for Regional Governance

- **Consideration should be given to the merits of providing an explicit statutory basis for regional municipal governance by including provisions in municipal legislation sanctioning the creation of regional municipal governments and authorities and the processes and means for doing so comparable to that of other jurisdictions.**

- **Consideration should be given to the merits of using one of the following statutory mechanism for providing the statutory basis to regional governance:**
  - **A special section of a general municipal act;**
  - **A special regional governments and authorities act; or**
  - **A special regional government/authority charter for each entity.**

- **Consideration should be given to the relative merits of the statutory basis for sanctioning the creation of regional municipal governments and authorities that exists in other jurisdictions as potential models for Saskatchewan.**

4.2 Processes for Regional Governance

- **Consideration should be given to the nature of provisions and principles that should be included in the municipal statutory framework regarding the processes for the incorporation, dissolution, annexation and amalgamation of regional governments and authorities wherever and whenever it is deemed appropriate or necessary.**

- **Consideration should be given to the merits of including provisions and principles in the municipal statutory framework regarding the roles and responsibilities of each of the following in incorporating, dissolving, annexing, or amalgamating regional municipal governments or authorities.**
  - **Local municipal electors,**
  - **Local municipal councils,**
  - **Provincial minister,**
  - **Provincial cabinet, and**
  - **Provincial legislature.**

- **Consideration should be given to the relative merits of the processes for incorporating, dissolving, annexing, or amalgamating regional municipal governments and authorities that exist in other jurisdictions as potential models for Saskatchewan.**

4.3 Forms of Regional Governance

- **Consideration should be given to including provisions and principles in municipal legislation regarding the general forms or types of regional governments or authorities that may be created, including the following:**
  - **One-tier regional governments or authorities;**
  - **Two-tier regional governments or authorities; or**
  - **Both one-tier and two-tier regional governments or authorities.**

- **Consideration should be given to the relative merits of the forms or types of regional governments and authorities that exist in other jurisdictions as potential models for Saskatchewan.**

4.4 Functional Frameworks for Regional Governance

- **Consideration should be given to including provisions and principles in municipal legislation indicating what functions regional municipal governments or authorities may perform including, for example, the following sets of general functions:**

- **Planning and Development Functions**
  - **-Land Use Planning and Development**
  - **-Transportation Planning and Development**
  - **-Economic Development and Planning**
- **Service Delivery Functions**
  - **-Water, Sewer, Waste Disposal**
  - **-Emergency and Protective Services**
  - **-Community Services**
- **Regulatory Functions**
  - **-Building and Fire Standards**
  - **-Licensing and Bylaw Enforcement**
- **Financial Functions**
  - **-Assessment and Taxation**

- **Consideration should be given to the relative merits of the functional frameworks for regional governments and authorities that exist in other jurisdictions as potential models for Saskatchewan.**

4.5 Governing/Management Frameworks for Regional Governance

- **Consideration should be given to including provisions and principles in municipal legislation regarding matters related to governing and management for regional governments and authorities such as:**
  - **The size of regional councils and boards,**
  - **The composition of regional councils and boards,**
  - **The selection of regional councils and boards, and**
  - **The management frameworks for regional councils and boards.**

- **Consideration should be given to the relative merits of the governing and management frameworks for regional governments and authorities that exist in other jurisdictions as potential models for Saskatchewan.**

4.6 Financial Frameworks for Regional Governance

- **Consideration should be given to including provisions and principles in the municipal statutory framework regarding the means by which regional governments or authorities may be financed including, for example, the following general means:**
  - **Requisitions from local municipal councils;**
  - **Requisitions from other local authorities;**
  - **Special taxes and levies;**
  - **Provincial-municipal tax sharing arrangements;**
  - **Provincial-municipal revenue-sharing; and**
  - **Provincial transfers.**

- **Consideration should be given to the relative merits of the financial frameworks for regional governments and authorities that exist in other jurisdictions as potential models for Saskatchewan.**

KEY RATIONALE

- The proposed directions could result in providing Saskatchewan statutory framework for regional governance comparable to that of other provinces that would supplement, rather than supplant the existing statutory framework for local municipal governance.

- The precise nature of that framework would depend on the types of decisions made by municipal and provincial officials in consultation with those whom they represent regarding the type of statutory framework that would be deemed appropriate for Saskatchewan.

- Such an enabling statutory framework could provide communities with the means to make important decisions regarding appropriate governance frameworks among neighbouring communities with various regions that could have major consequences for their future. Everyone would know the 'processes and parameters' for creating regional governments.

- Several jurisdictions in Canada have statutory frameworks for the creation and operation of regional municipal governments or regional municipal authorities.

- Their statutory frameworks provide interesting and potentially useful models for establishing comparable, though not necessarily identical statutory frameworks in Saskatchewan.

- Those who are genuinely interested in improving existing forms or regional governance and creating new forms of regional governance in this province in the future will find the statutory frameworks of other jurisdictions quite instructive and useful for that purpose. There is no shortage of models that can provide a basis for establishing the appropriate statutory framework or frameworks for Saskatchewan that can accommodate the various needs and preferences.

- In exploring those statutory frameworks it is useful to take particular note of the type of provisions that they contain regarding the various frameworks discussed in this section of the report, namely:
  - Structural Frameworks,
  - Organizational Frameworks,
  - Functional Frameworks,
  - Financial Frameworks, and
  - Processes Frameworks.

- Regional governance is pervasive and inevitable in all jurisdictions, including Saskatchewan. The question that must be addressed is what form it will take. In thinking about form it must be remembered that regional governance is not just municipal form of governance; it may also be a provincial form of governance. The crucial question for the people of Saskatchewan in the future will be in which of these two particular governance sectors regional governance should be based, or more precisely what facet of regional governance should be based in each of those sectors. An additional consideration that cannot be overlooked is that there is an important third sector of governance in this province that has important implications for regional governance, namely Aboriginal governance. Undoubtedly, partnerships will have to be developed between the municipal, provincial, and Aboriginal sectors to produce optimal regional governance arrangements for the future.

PART FOUR: APPENDICES

- The appendices in this section have been developed by the Task Force to help individuals and organizations familiarize themselves with the following:
  - Demographic & economic trends in Saskatchewan; and
  - Features of the current municipal government system in Saskatchewan compared to other provinces and territories.

- The appendices included in this section are grouped into the following four sections:

1. **Demographic & Economic Trends in Saskatchewan**
   - 1.1 Population Out Migration
   - 1.2 Intra-Provincial Population Migration
   - 1.3 Age Composition
   - 1.4 Ethnocultural Composition

2. **Structural Features of the Municipal System**
   - 2.1 Number, Types & Criteria for Municipal Incorporation
   - 2.2 Saskatchewan in Comparison to Other Provinces
   - 2.3 Population Characteristics of Saskatchewan Municipalities
   - 2.4 Saskatchewan Population by Municipal Type
   - 2.5 Population Ranges of Saskatchewan Municipalities
   - 2.6 Saskatchewan Municipalities No Longer Meeting Their Minimum Population Criteria for Municipal Incorporation
   - 2.7 Population Range of Rural Municipalities 1921 & 1996
   - 2.8 Geographic Size and Population Density of Saskatchewan Municipalities
   - 2.9 Comparison of Rural & Regional Municipalities/Districts in Western Provinces

3. **Functional Features of the Municipal System**
   - 3.1 Legislated Responsibilities of Saskatchewan Municipalities
   - 3.2 Municipal Functions by Expenditure

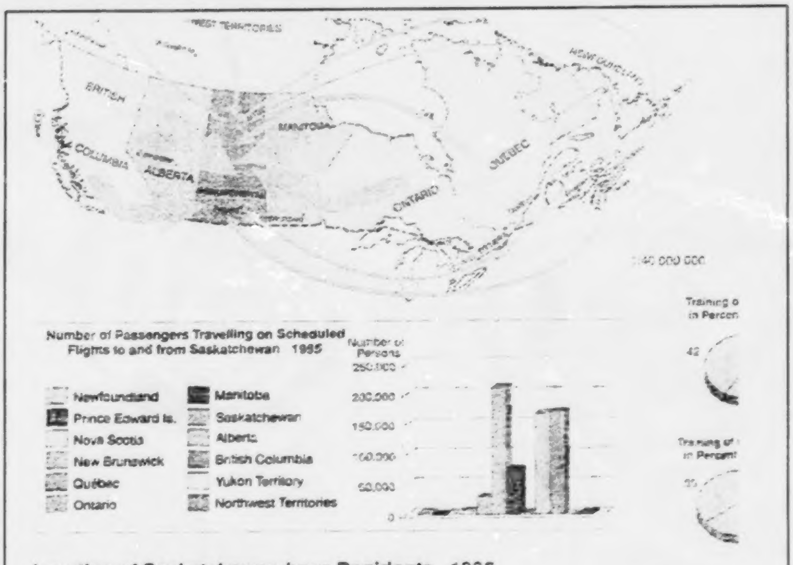
4. **Financial Features of the Municipal System**
   - 4.1 Municipal Revenue Sources
   - 4.2 Total Revenues of Saskatchewan Municipalities
   - 4.3 Assessment Base of Saskatchewan Municipalities

APPENDIX 1: DEMOGRAPHIC TRENDS

1.1 Population Out Migration

Net Exporter of People

- Historically, Saskatchewan has been a net exporter of people from all sectors of the labour market.
- In 1996, there were almost 550,000 people who were born in Saskatchewan living in other provinces; more than any other province except Ontario. The favourite destinations of Saskatchewan migrants are Alberta, British Columbia, Ontario and Manitoba.


WEST TERRITORIES
BRITISH
COLUMBIA
ALBERTA
MANITOBA
ONTARIO
QUEBEC
NEWFOUNDLAND
1:40 000 000
Number of Passengers Travelling on Scheduled Flights to and from Saskatchewan 1995
Newfoundland
Prince Edward Is.
Nova Scotia
New Brunswick
Québec
Ontario
Manitoba
Saskatchewan
Alberta
British Columbia
Yukon Territory
Northwest Territories
Number of Persons
250,000
200,000
150,000
100,000
50,000
0
Training o in Percen
42
Training of in Percent
35

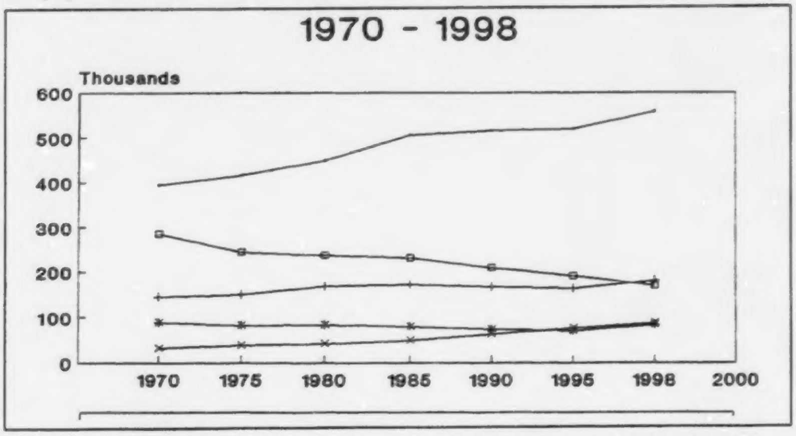
Location of Saskatchewan-born Residents 1996

SOURCE: The Atlas of Saskatchewan, 1999.

1.2 Intra-Provincial Population Migration

Rural-Urban Migration

- The graph below shows that Saskatchewan has been experiencing a growing shift in population from rural parts of the province to urban centres, including cities, towns and villages. In addition, the graph shows the relative increase in population of Saskatchewan's First Nation reserves.

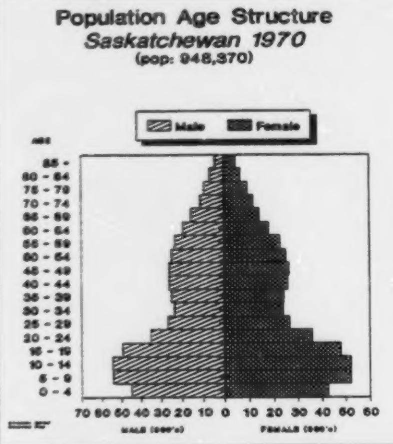


SOURCE: Compiled from Saskatchewan Hospital Services Plan (SHSP) Covered Population Data 1999.

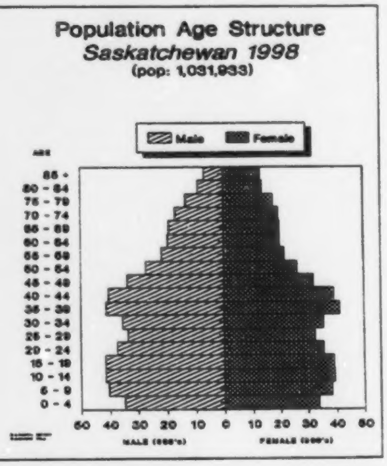
1.3 Age Composition

Aging Population

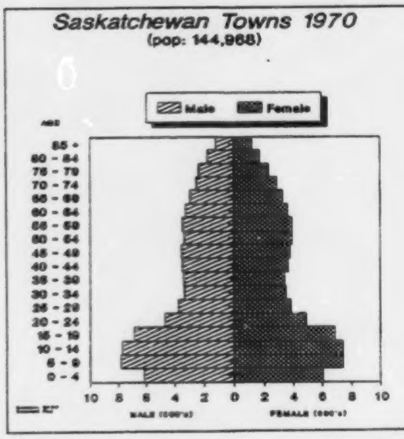
- The graphs below show that Saskatchewan's population is aging, with the majority of the population increasingly entering their middle and senior years.
- The graphs also show that population aging patterns are not uniform among all types of Saskatchewan communities. For example, towns have a greater proportion of seniors than cities.



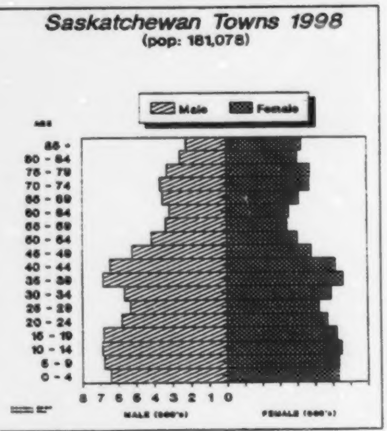
Population Age Structure
Saskatchewan 1970
(pop: 948,370)



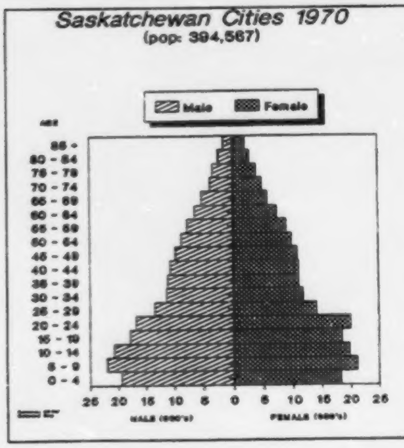
Population Age Structure
Saskatchewan 1998
(pop: 1,031,933)



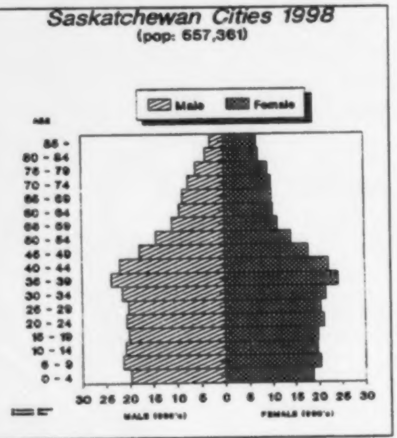
Saskatchewan Towns 1970
(pop: 144,968)



Saskatchewan Towns 1998
(pop: 181,078)



Saskatchewan Cities 1970
(pop: 394,567)



Saskatchewan Cities 1998
(pop: 557,361)

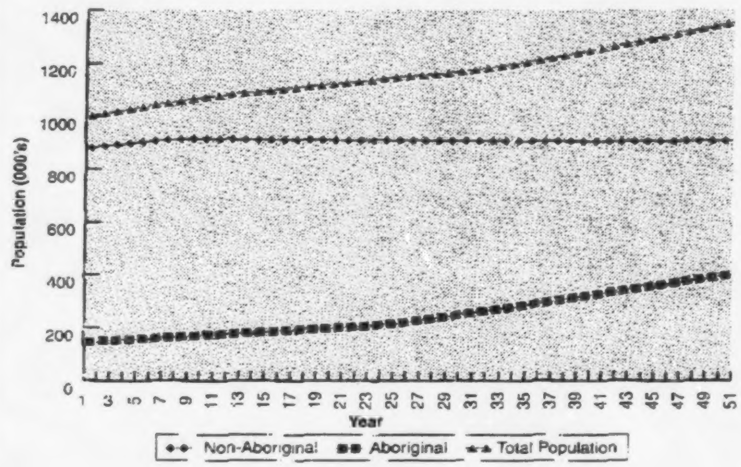
1.4 Ethnocultural Composition

- The table and graphs below show that the Aboriginal population in Saskatchewan will continue to grow both in absolute numbers and in proportion to the non-Aboriginal population of the province.

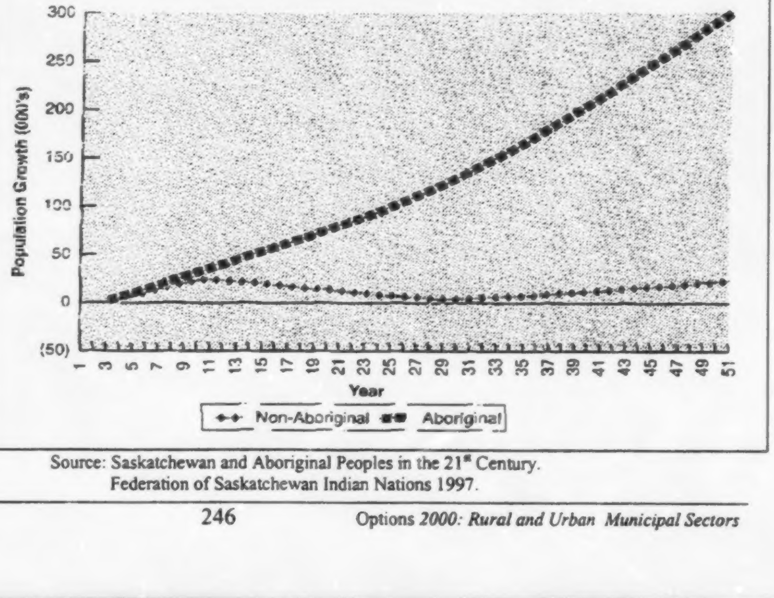
Saskatchewan Population & Aboriginal Population Projections

	1995	2005	2015	2025	2035	2045
Population						
• Aboriginal	134,000	178,000	223,000	278,000	348,000	434,000
• Non-Aboriginal	883,000	904,000	892,000	886,000	891,000	903,000
• Total Population	1,018,000	1,082,000	1,115,000	1,164,000	1,239,000	1,337,000
Population Proportions (%)						
• Aboriginal	13%	16%	20%	24%	28%	32%
• Non-Aboriginal	87%	84%	80%	76%	72%	68%

Saskatchewan Population Projections (1995 - 2045)



Cumulative Growth in Population from 1995 to 2045



Source: Saskatchewan and Aboriginal Peoples in the 21st Century.
Federation of Saskatchewan Indian Nations 1997.

APPENDIX 2: STRUCTURAL FEATURES OF THE MUNICIPAL SYSTEM

2.1 Number, Types & Criteria for Municipal Incorporation

1000 Municipal Entities

836 Municipalities
170 "Quasi- Municipalities"

- Saskatchewan has 836 individual incorporated municipalities grouped into Urban, Rural and Northern municipalities. Saskatchewan also has 159 Organized Hamlets and 11 Northern Settlements that are unincorporated 'quasi-municipalities' each having their own elected advisory boards.
- The number, types and criteria for incorporation of Saskatchewan municipalities is outlined below.

Type of Municipality	Number	Minimum Population	Dwellings/ Businesses	Other Incorporation Criteria
Urban Municipalities				
Cities	12	5,000	n/a	council resolution/request
Towns	145	500	n/a	council resolution/request
Villages	316	100	50	council resolution or petition
Resort Villages	42	100	50	petition of 30 would-be electors
Rural Municipalities				
Rural Municipalities	297	none	none	ministerial order
Northern Municipalities				
Northern Towns	2	500	n/a	council petition of 15 electors
Northern Villages	13	100	50	council petition of 15 electors
Northern Hamlets	9	50	25	petition of 10 electors
TOTAL	**836**			

SOURCES: Municipal Directory: Saskatchewan Municipal Affairs, Culture & Housing, 1999, The Urban Municipality Act, 1984, The Rural Municipality Act, 1989, The Northern Municipalities Act.

2.2 Saskatchewan In Comparison to Other Provinces

Second highest number of municipalities in Canada

Lowest average population per municipality in Canada

- Saskatchewan has the second highest number of municipalities in Canada.
- Saskatchewan has the lowest average population per municipality in Canada.

Province	Number of Municipalities	Population (1998)	Average Population Per Municipality
SASKATCHEWAN	**836**	**1,024,477**	**1,225**
P.E.I.	75	136,529	1,820
NEWFOUNDLAND	291	543,829	1,868
QUEBEC	1375	7,334,502	5,334
MANITOBA	201	1,138,667	5,665
NEW BRUNSWICK	103	752,955	7,310
ALBERTA	371	2,914,539	7,856
NOVA SCOTIA	55	935,327	17,006
ONTARIO	586	11,413,633	19,477
BRITISH COLUMBIA	155	4,008,951	25,864

NOTES:
1. The numbers of municipalities in all provinces do not include unincorporated, quasi-municipalities (hamlets, northern settlements, etc.) or regional/district authorities.
2. The average population per municipality was derived by dividing the total population of the province by the number of incorporated municipalities in that province
3. Population data is from Statistics Canada. CANSIM Matrices 6367-6379 and includes the total population of each province, not the population covered by municipalities.

2.3 Population Characteristics of Saskatchewan Municipalities

Large variation in populations among municipalities

- Saskatchewan's municipalities have a great variation in population among the three broad categories of municipalities - urban, rural and northern, as well as between municipalities of all particular types – cities, towns, villages, resort villages, northern villages, etc.

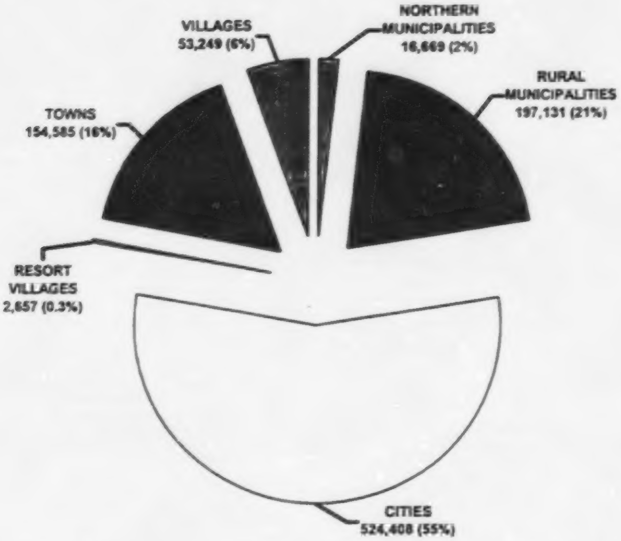
Type of Municipality	Number	Average Population	Largest Population	Smallest Population
Urban Municipalities				
• Cities	12	43,701	193,647	4,646
• Towns	145	1,066	5,074	89
• Villages	316	169	1,147	5
• Resort Villages	42	63	463	0
Total Urban	**515**	**1,427**		
Rural Municipalities	**297**	**664**	7,152	154
Northern Municipalities				
• Northern Towns	2	2,339	2,964	1,713
• Northern Villages	13	845	1,956	153
• Northern Hamlets	9	115	233	40
Total North	**24**	**696**		
ALL MUNICIPALITIES	**836**	**1,225**	**193,647**	**0**

SOURCE: Compiled from information contained in the Municipal Directory 1998. Saskatchewan Municipal Affairs, Culture and Housing.

NOTES: 1. Population data is based on 1996 Statistics Canada Census Data, which involves permanent resident population as opposed to seasonal populations (e.g., resort villages).

2. Average population for all municipalities (1,125) uses 1998 population for the entire province (including unincorporated areas and First Nations reserves) from previous table.

2.4 Saskatchewan Population by Municipal Type



SOURCE: Compiled from information contained in the Municipal Directory 1998. Saskatchewan Municipal Affairs, Culture and Housing.

2.5 Population Ranges of Saskatchewan Municipalities

97% of municipalities have populations less than 2000

- Almost 97% of Saskatchewan's municipalities have populations less than 2000.
- 65% have populations less than 500.
- 20% have populations less than 100.

Range	RM's	Resorts	Villages	Towns	Cities	North	Total	%
under 100	-	34	126	1	-	5	166	**20.0%**
100 - 199	7	5	82	4	-	5	103	**12.3%**
200 - 499	132	3	103	33	-	2	273	**32.7%**
500 - 999	116	-	4	57	-	7	184	**22.0%**
1000 - 1999	36	-	1	32	-	4	73	8.6%
2000 - 4999	5	-	-	17	1	1	24	2.9%
5000 - 9999	1	-	-	1	3	-	5	0.6%
10,000 - 24,999	-	-	-	-	4	-	4	0.5%
25,000 - 49,999	-	-	-	-	2	-	2	0.2%
50,000 & over	-	-	-	-	2	-	2	0.2%
TOTAL	**297**	**42**	**316**	**145**	**12**	**24**	**836**	100%

SOURCE: Compiled from information contained in the Municipal Directory 1998. Saskatchewan Municipal Affairs, Culture and Housing.

NOTES: 1. The populations of individual municipalities within each range are based on 1996 Statistics Canada Census Data.

2.6 Saskatchewan Municipalities No Longer Meeting Their Minimum Population Criteria for Municipal Incorporation

20% of municipalities no longer meet criteria

40% of villages no longer meet criteria of 100

25% of towns no longer meet criterion of 500

- Almost 20% of Saskatchewan's municipalities no longer meet their minimum population criteria for incorporation.
- Over 40% of the villages and almost 25% of the towns no longer meet their minimum population criteria for incorporation.

Type of Municipality	Current Number	Minimum Population Criteria	# No Longer Meeting Minimum Criteria	# Surpassing Minimum Criteria For Next Municipal Type
Urban Municipalities				
• Cities	12	5000	1	
• Towns	145	500	38	1
• Villages	316	100	126	5
• Resort Villages	42	*	*	8
Total Urban	**515**		**165**	**14**
Rural Municipalities	297	None	-	-
Northern Municipalities				
• Northern Towns	2	500	0	0
• Northern Villages	13	100	0	10
• Northern Hamlets	9	50	2	4
Total North	**24**		**2**	**14**
TOTAL	**836**		**167**	**28**

SOURCE: Compiled from information contained in the Municipal Directory 1998. Saskatchewan Municipal Affairs, Culture and Housing.

* Note: Minimum population criteria for resort villages is 100 electors or their dependents, including seasonal and permanent populations. It is unclear how many no longer meet this requirement. Eight have permanent populations that exceed the minimum required for villlage status.

2.7 Population Ranges of Rural Municipalities 1921 & 1996

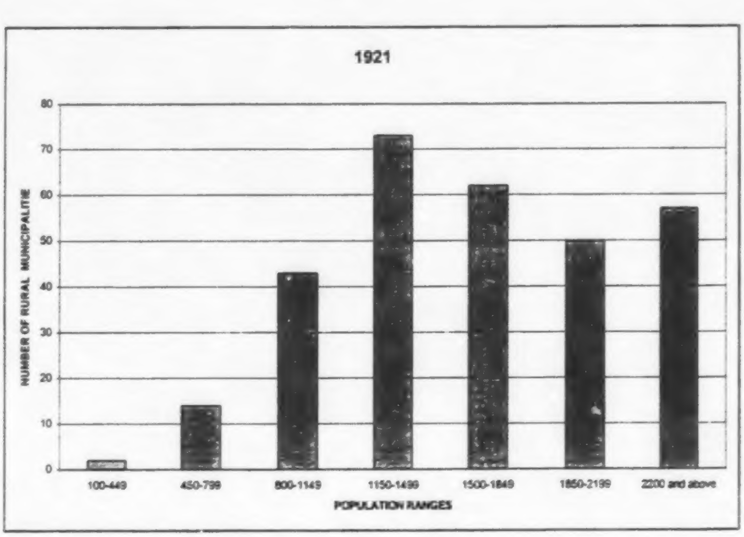
- The charts below show the population ranges of rural municipalities in Saskatchewan in 1921 compared with 1996.

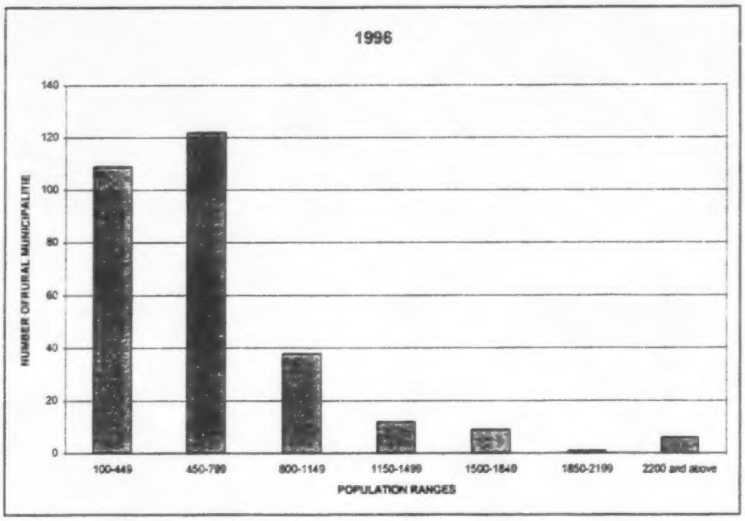
Most RM populations ranged from 1150 to over 2200 in 1921…

- The first chart shows that in 1921, the majority of RM populations ranged from 1150 people to over 2200 people, with very few RM's having populations less than 450 people.

…in 1996, most RM populations were less than 800

- The second chart shows that in 1996, the majority of RM populations were less than 800 people, and that a significant number of RM's (over 100) have a population of less than 450 people.





Sources: Province of Saskatchewan Royal Commission on Agriculture and Rural Life. History of Rural Local Government in Saskatchewan. 1995, p. 37. 1996 information compiled from the Municipal Directory 1998. Saskatchewan Municipal Affairs, Culture and Housing.

2.8 Geographic Size and Population Density of Saskatchewan Municipalities

Diversity of Geographic Sizes & Population Densities

- Saskatchewan municipalities have a diverse range of geographic sizes and population densities.

	Number	Average Area (sq.km)	Largest Area (sq.km)	Smallest Area (sq.km)	Avg. Pop. Density (persons/sq.km)
Rural Municipalities	**297**	**1,036.87**	**12,482.45**	**418.86**	**0.64**
Urban Municipalities					
• Cities	12	43.65	136.79	14.04	1,001.18
• Towns	145	3.35	22.30	0.57	318.58
• Villages	316	1.03	3.87	0.60	163.45
• Resort Villages	42	2.36	64.08	0.06	26.86
Total Urban	**515**	**2.78**			**512.57**
Northern Municipalities					
• Northern Towns	2	10.77	14.20	7.34	217.13
• Northern Villages	13	12.31	32.47	3.42	68.65
• Northern Hamlets	9	2.11	4.00	0.20	54.40
Total Northern	**24**	**8.36**			**83.25**
TOTAL ALL MUNICIPALITIES	**836**	**370.32**	**12,482.45**	**0.57**	**3.06**

SOURCE: Compiled from information provided by Saskatchewan Bureau of Statistics.

NOTES: 1. Average population density was derived by dividing the average population (in Appendix 2.3) for each municipal type by the average area for each municipal type.

2.9 Comparison of Rural & Regional Municipalities/Districts in Western Provinces

Comparison With Other Western Provinces

Province	Number	Area Covered (sq.km)	Average Area (sq.km)	Largest Area (sq.km)	Smallest Area (sq.km)	Total Pop'n Covered	Avg. Pop. Density (per/sq.km)
Saskatchewan							
• Rural Municipalities	**297**	**307,950**	**1,037**	**12,482**	**419**	**197,131**	**0.64**
Manitoba							
• Rural Municipalities	116	98,712	851	3,247	44	235,793	2.39
Alberta							
• Municipal Districts	64	406,865	6,357	34,275	686	400,820	.99
British Columbia							
• District Municipalities	53	8,773	166	1,549	9	867,446	15.49
• Regional Districts	27	816,465	30,239	119,383	2,082	3,725,457	4.56

SOURCES: Alberta Municipal Affairs - 1999 Official Population List. British Columbia Municipal Financial Services - Area and Population of Incorporated Municipalities as at December 31, 1997. Manitoba Rural Development. – 1997 Statistical Information of Manitoba Municipalities of the Saskatchewan Bureau of Statistics- Municipalities, Number of Dwellings and Area, 1996. Saskatchewan Municipal Affairs, Culture and Housing – 1998 Municipal Directory.

APPENDIX 3: FUNCTIONAL FEATURES OF THE MUNICIPAL SYSTEM

3.1 Legislated Responsibilities of Saskatchewan Municipalities

➢ The functional responsibilities of municipal governments are prescribed in municipal legislation as either mandatory or optional. In legislation, the general responsibilities and functions of Saskatchewan municipalities differ only slightly among urban, rural and northern municipalities, as shown below.

Legislated Responsibilities of Saskatchewan Municipalities

Mandatory Functions of All Municipalities

Mandatory: all municipalities must:

- Repair, maintain streets and roads;
- Administer and enforce building and fire prevention standards;
- Conduct council member elections, hold council meetings;
- Appoint staff (administrator or clerk, treasurer, assessor); and
- Prepare and adopt an annual budget, and levy taxes on property.

Optional Functions of All Municipalities

Optional: all municipalities may:

- Provide utilities including water, sewer and solid waste control;
- Provide fire, police, ambulance and emergency services;
- License businesses and other activities;
- Adopt planning and zoning controls;
- Provide recreational and cultural facilities and services such as parks & libraries;
- Provide special housing and care homes;
- Promote economic development and tourism;
- Promote public health;
- Enter into agreements and make grants; and
- Borrow and invest funds

Some Variations in Legislated Functions Among Different Types of Municipalities

Some Differences in Functional Responsibilities Among the Three Core Acts:

Only *The Urban Municipality Act* has provisions regarding:

- Establishing business improvement districts; and
- Undertaking downtown revitalization projects.

Only *The Rural Municipality Act* has provisions regarding:

- Operating, purchasing, and selling agricultural equipment & products.

Only *The Urban Municipality Act* and *The Northern Municipalities Act* have provisions regarding:

- Regulating store hours;
- Controlling the maintenance and occupancy of property; and
- Heating, power and gas utilities.

Only *The Northern Municipalities Act* has provisions regarding:

- Establishing municipal development corporations.

SOURCES: Advisory Committee Report on Inter-Community Cooperation and Community Quality of Life 1993, The Urban Municipality Act, 1984, The Rural Municipality Act, 1989, The Northern Municipalities Act.

➢ There are often major differences in the requirements and regulations regarding how certain types and sizes of municipalities perform certain functions such as:

- Policing;
- Fire protection;
- Assessment; and
- Financial matters such as borrowing, setting utility rates, etc.

3.2 Municipal Functions By Expenditure

Large variation in the functional expenditures among municipalities

RM's spend greater percentage on roads

Urban municipalities spend greater percentage on protective services, utilities, recreation & culture

- While the legislative responsibilities of different types of municipalities are largely the same, the financial expenditures of municipalities in performing different functions varies greatly among urban, rural and northern municipalities and among the different types of urban and northern municipalities.

- Financial expenditure statistics for 1997 reveal the following;
  - Rural municipalities spend almost two-thirds of their total expenditures on roads, considerably more than any other type of municipality.
  - Urban and northern municipalities spend a greater percentage of their total expenditures on protective services, utilities and recreation and culture than rural municipalities.
  - The larger urban municipalities – cities and towns – spend a smaller percentage of their total expenditures on providing general government than do rural or northern municipalities.

	% of Total Expenditures - 1997				
Type of Municipality	**General Gov't**	**Roads & Transport'n**	**Protective Services**	**Utilities**	**Recreation & Culture**
Urban Municipalities					
• Cities	11%	11%	24%	35%	14%
• Towns	17%	23%	14%	21%	16%
• Villages	31%	25%	4%	26%	6%
• Resort Villages	41%	34%	2%	9%	5%
Total Urban	**13%**	**14%**	**21%**	**33%**	**14%**
Rural Municipalities	**16%**	**65%**	**2%**	**1%**	**2%**
Northern Municipalities					
• Northern Towns	24%	18%	17%	16%	18%
• Northern Villages	34%	11%	3%	19%	14%
• Northern Hamlets	36%	3%	8%	1%	21%
Total North	**31%**	**12%**	**7%**	**15%**	**17%**

SOURCE: Compiled from municipal financial statistics for the year ended December 31, 1997. Saskatchewan Municipal Affairs, Culture and Housing.

NOTES:

1. General Government expenditures include administrative costs, salaries, councillor remuneration, office expenses, advertising, election expenses, etc.
2. Protective Services includes policing, fire, ambulance, building inspections, EMO, etc.
3. Roads and Transportation expenditures for rural municipalities do not include any capital expenditures for equipment for road maintenance, public works, etc., or any transfers to capital trust funds for these purposes. These are categorized as 'Transfers & Fiscal Services' and constituted 9% of total RM expenditures in 1997.
4. Utility expenditures shown for rural municipalities are categorized as 'Environmental Health & Development' services in RM financial data and include waste collection, public wells and other utilities.
5. Recreation & Culture includes parks, libraries, and recreation facilities and for northern hamlets includes community projects and programs.
6. The composition of expenditures noted above was derived from detailed expenditure information for rural municipalities. Actual composition in these categories for urban and northern municipalities may vary somewhat.

APPENDIX 4: FINANCIAL FEATURES OF THE MUNICIPAL SYSTEM

4.1 Municipal Revenue Sources

➢ The fiscal capacity of municipal governments is directly related to their authority to raise revenues from their own sources such as property taxes, utility charges and user fees, licenses, permits, and so on, as well as grants and transfers from senior levels of government.

Large variation in the primary sources of revenue among municipalities

➢ The percentage of total revenues derived from each revenue source varies greatly among the three major municipal types, and among the different types of urban and northern municipalities.

➢ The table below reveals the following:

RM's rely more heavily on property tax revenues

- ◆ Rural municipalities rely on property tax revenues for a greater percentage of their total revenues than any other type of municipality.

Urban municipalities rely both on property taxes and other own source revenue

- ◆ Urban municipalities rely on both property taxes and other own-source revenue (user fees and service charges) for over 85% of their total revenues.

Northern municipalities rely more heavily on provincial grants & transfers

- ◆ Northern municipalities, particularly the smaller northern municipalities rely more heavily on provincial grants and transfers than do urban or rural municipalities.

	% of Total Revenues - 1997				
Type of Municipality	**Property Taxes**	**Service, User & Utility Fees**	**Grants in Lieu of Taxes**	**Grants & Transfers**	**Other**
Urban Municipalities					
• Cities	35%	48%	6%	7%	4%
• Towns	43%	38%	3%	13%	3%
• Villages	44%	35%	1%	15%	5%
• Resort Villages	72%	14%	0.1%	8%	6%
Total Urban	**37%**	**45%**	**5%**	**9%**	**4%**
Rural Municipalities	**69%**	**3%**	**1%**	**19%**	**8%**
Northern Municipalities					
• Northern Towns	48%	29%	1%	16%	6%
• Northern Villages	12%	30%	1%	54%	3%
• Northern Hamlets	2%	27%	0%	64%	7%
Total North	**19%**	**28%**	**1%**	**47%**	**5%**

SOURCE: Compiled from municipal financial statistics for the year ended December 31, 1997. Saskatchewan Municipal Affairs, Culture and Housing.

NOTES:

1. Grants In-Lieu of Property Taxes includes federal and provincial grants in-lieu.
2. Grants and Transfers include federal and provincial grants and transfers.
3. Service, User & Utility Fees include revenues from the following categories: General Government Services, Protective Services, Transportation Services, Environmental Health Services, Public Health & Welfare Services, Environmental Development Services, Recreation & Cultural Development Services, and Utilities.
4. Other Revenues include: Interest, Dividends, Penalties, Commissions and Miscellaneous
5. For comparison purposes, Potash Tax Sharing revenues are included as Grants & Transfers for both urban and rural municipalities.

4.2 Total Revenues of Saskatchewan Municipalities

Large variation in the total revenues of municipalities

- The amount of total revenues derived from all revenue sources varies greatly among the different types of municipalities in the province, as well as among municipalities of the same type.

92% of municipalities have total revenues less than $1 million

30% of municipalities have total revenues less than $100,000

- The table below reveals the following:
  - Almost 92% of all municipalities in the province have total revenues less than $1 million; and
  - Almost 30% have total revenues less than $100,000.

Range	RM's	Resorts	Villages	Towns	Cities	North	Total	%
under $10,000	-	1	11	-	-	-	12	**1.4%**
$10,000-49,999	-	21	108	1	-	-	130	**15.5%**
$50,000-99,000	1	13	83	3	-	1	101	**12.1%**
$100,000-249,999	4	5	100	19	-	5	133	**15.9%**
$250,000-499,999	118	2	13	50	-	8	191	**22.9%**
$500,000-749,999	107	-	1	28	-	5	141	**16.9%**
$750,000-999,000	43	-	-	14	-	1	58	**6.9%**
$1 million – $4.999million	24	-	-	30	1	4	59	7.1%
$5 million – $9.999 million	-	-	-	-	2	-	2	0.2%
$10 million – $99.999 million	-	-	-	-	7	-	7	0.8%
over $100 million	-	-	-	-	2	-	2	0.2%
TOTAL	**297**	**42**	**316**	**145**	**12**	**24**	**836**	**100%**

SOURCE: Compiled from municipal financial statistics for the year ended December 31, 1997.
Saskatchewan Municipal Affairs, Culture and Housing.

4.3 Assessment Base of Saskatchewan Municipalities

Large variation in the assessment base of municipalities

- The assessment base varies greatly among the different types of municipalities in the province, as well as among municipalities of the same type.

52% of municipalities have an assessment base of less than $10 million

42% of municipalities have an assessment base of less than $5 million

Range	RM's	Resorts	Villages	Towns	Cities	North	Total	%
under $100,000	-	-	8	2	-	-	10	**1.2%**
$100,000-499,999	-	-	57	-	-	-	57	**6.9%**
$500,000-999,999	-	2	65	-	-	1	68	**8.3%**
$1– 2.499 million	-	11	101	2	-	2	116	**14.1%**
$2.5–4.999 million	-	15	55	23	-	3	96	**11.6%**
$5 – 9.999 million	1	10	23	43	-	5	82	**10.0%**
$10 – 49.9 million	202	4	5	62	-	2	275	33.4%
$50 – 99.9 million	76	-	-	9	1	2	88	10.7%
$100-499.9 million	18	-	-	3	7	-	28	3.4%
$ 500 million – $1 billion	-	-	-	-	2	-	2	0.2%
over $1 billion	-	-	-	-	2	-	2	0.2%
TOTAL	**297**	**42**	**314**	**144**	**12**	**15**	**824**	**100%**

SOURCE: Compiled from 1998 confirmed assessment statistics as of May 10, 1999
Saskatchewan Municipal Affairs, Culture and Housing

Note: 1. Twelve municipalities had not submitted assessment information as of May 10, 1999. Thus the total number of municipalities does not total 836.